Also, petitions of 16 voters of Jackson, Mich., in opposition to national prohibition; to the Committee on Rules.

By Mr. CARY: Resolutions adopted at the convention of the International Union of Journeymen Horseshoers of America, assembled in the city of Memphis, June 22 to 27, 1914, in which resolutions were adopted protesting against the passage of the Hobson amendment providing for nation-wide prohibition; to the Committee on Rules.

Also, memorial of Veterans' Post, No. 8, Grand Army of the Republic, Department of Wisconsin, favoring an appropriation for reunion of veterans at Vicksburg, Miss.; to the Committee on Appropriations.

By Mr. DALE: Petition of department on compensation for industrial accidents and their prevention of the National Civic Federation, favoring passage of House bill 10733, relative to bureau of labor safety in the Department of Labor; to the Committee on Labor.

By Mr. EAGAN: Petition from Mrs. Katherine Middleton, State superintendent of Sunday schools, Woman's Christian Temperance Union of New Jersey, and Minetola Advancement League, of Minetola, N. J., both favoring national prohibition; to the Committee on Rules.

By Mr. HELGESEN: Petitions of 125 citizens of North Dakota, praying for the passage of the Hobson amendment to the Constitution; to the Committee on Rules.

Also, petition of various business men of Adams, N. Dak., praying for certain amendments to the interstate-commerce law, relative to taxing mail-order houses; to the Committee on Ways and Means.

Also, petition of the Evangelical Brotherhood of Fargo, N. Dak., favoring national prohibition; to the Committee on Rules.

By Mr. LONERGAN: Protest of Mr. Fred C. Cooley, of Hartford, Conn., against House joint resolution 168; to the Committee on Rules.

By Mr. McCLELLAN: Petition of Ward S. Oakley and 32 other voters of Hillsdale, N. Y., favoring national prohibition; to the Committee on Rules.

Also, protests of Fred Forest, of Kingston, and Charles Mulspaugh, Arthur Broas, William Hatnay, and William Snyder, of Ellenville, all in the State of New York, against national prohibition; to the Committee on Rules.

Also, telegram representing the petition of a mass meeting of citizens at Stone Ridge to Congress to submit amendment prohibiting importation, manufacture, and sale of intoxicating liquors; also petition of Charles H. Aldridge, of Marlboro, favoring national prohibition; to the Committee on Rules.

By Mr. McKELLAR: Papers to accompany a bill (H. R. 18059) granting an increase of pension to James Toulin; to the Committee on Invalid Pensions.

By Mr. ROBERTS of Nevada: Petition of the International Alliance of Theatrical Stage Employees of Reno, Nev., against national prohibition; to the Committee on Rules.

By Mr. ROGERS: Petition of sundry citizens of Bedford, Mass., favoring national prohibition; to the Committee on Rules.

By Mr. SIMS: Petition of 728 citizens of Big Sandy, Tenn., favoring national prohibition; to the Committee on Rules.

By Mr. SMITH of Idaho: Petition of A. Urbsher, of Grangeville, Idaho, protesting against national prohibition; to the Committee on Rules.

Also, papers to accompany a bill (H. R. 17994) granting an increase of pension to Henry F. Black; to the Committee on Invalid Pensions.

By Mr. STEPHENS of California: Petition of Rev. Robert Carter and 45 citizens of Burbank, Cal., favoring national prohibition; to the Committee on Rules.

Also, petition of Local Union No. 72, International Union of Steam and Operating Engineers, of Los Angeles, Cal., protesting against national prohibition; to the Committee on Rules.

Also, memorial of Nelson A. Miles Camp, Spanish War Veterans, favoring frigate *Independence* being taken to San Francisco during 1915; to the Committee on Military Affairs.

Also, memorial of the Maisonville (Cal.) Chamber of Commerce, favoring standard apple boxes; to the Committee on Interstate and Foreign Commerce.

Also, petitions of the Alaska Salmon Packers' Association, of San Francisco, favoring appropriation for Alaska fisheries vessels; also Pacific Coast Steamship Co., of San Francisco, Cal., concerning safety of steamships on Alaskan coast; to the Committee on Appropriations.

Also, memorial of the Red Bluff Chamber of Commerce, favoring Newlands river regulation bill; to the Committee on Rivers and Harbors.

By Mr. TEN EYCK (by request): Petition of W. J. Eaton, of Albany, N. Y., urging the passage of the Hobson bill, providing for national prohibition; to the Committee on Rules.

By Mr. THOMSON of Illinois: Petition of the North Shore Congregational Church, of Chicago, Ill., favoring national prohibition; to the Committee on Rules.

By Mr. TOWNSEND: Petition of town council of West Orange, N. J., favoring Hamill civil-service retirement bill; to the Committee on Reform in the Civil Service.

By Mr. UNDERHILL: Petitions of sundry voters and also sundry women of Candor, Tioga County, N. Y., favoring national prohibition; to the Committee on Rules.

## SENATE.

### MONDAY, *July 27, 1914.*

The Senate met at 10 o'clock a. m.

Rev. J. L. Kibler, D. D., of the city of Washington, offered the following prayer:

We thank Thee, our heavenly Father, for the light of Thy countenance and for the inspiration of Thy Spirit. We thank Thee for Thy outstretched hand and for the path which Thou hast marked out for our feet. Grant us Thy favor in the consideration of all our plans this day. Overrule our mistakes and bless the cause for which we stand. Sanctify our efforts, and give us understanding according to Thy law. We ask it in Jesus' name. Amen.

The VICE PRESIDENT. The Secretary will read the Journal of the proceedings of the preceding session.

Mr. GALLINGER. Pending the reading of the Journal, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

| | | | |
|---|---|---|---|
| Ashurst | Hollis | Pittman | Swanson |
| Brandegee | Jones | Pomerene | Thornton |
| Bryan | Kern | Reed | Tillman |
| Camden | Lane | Sheppard | Vardaman |
| Chamberlain | Lea, Tenn. | Smith, Ga. | Walsh |
| Culberson | Myers | Smoot | West |
| Cummins | Owen | Sterling | White |
| Gallinger | Page | Stone | Williams |
| Gronna | Perkins | Sutherland | |

Mr. THORNTON. I desire to announce the necessary absence of my colleague [Mr. RANSDELL] on account of illness. I ask that this announcement may stand for the day.

Mr. PAGE. I wish to announce the necessary absence of my colleague [Mr. DILLINGHAM]. He is paired with the senior Senator from Maryland [Mr. SMITH].

The VICE PRESIDENT. Thirty-five Senators have answered to the roll call. There is not a quorum present. The Secretary will call the absentees.

The Secretary called the names of the absent Senators, and Mr. LEWIS, Mr. SHAFROTH, and Mr. WEEKS answered to their names when called.

Mr. JONES. I desire to announce that the junior Senator from Michigan [Mr. TOWNSEND] is absent necessarily, and that he is paired with the junior Senator from Arkansas [Mr. ROBINSON]. This announcement will stand for the day.

Mr. KENYON, Mr. BRADY, and Mr. CATRON entered the Chamber and answered to their names.

The VICE PRESIDENT. Forty-one Senators have responded to the roll call. There is not a quorum present.

Mr. KERN. I move that the Sergeant at Arms be directed to request and if necessary compel the attendance of absent Senators.

The motion was agreed to.

The VICE PRESIDENT. The Sergeant at Arms will carry out the instruction of the Senate.

Mr. CLARK of Wyoming and Mr. CLAPP entered the Chamber and answered to their names.

Mr. STONE. I request that the list of absent Senators be read from the desk.

Mr. GALLINGER. The names of the absentees have just been called.

Mr. STONE. I make that request.

Mr. BRANDEGEE. I make the point of order that until a quorum appears there is nothing in order except to secure a quorum, and that that order has been entered.

The VICE PRESIDENT. The point of order is sustained.

Mr. CLAPP. I desire to state that the senior Senator from Wisconsin [Mr. LA FOLLETTE] is necessarily detained from the Chamber on account of illness. I will let this statement stand for the day.

Mr. GALLINGER. I announce that the junior Senator from Maine [Mr. BURLEIGH] is unavoidably absent.

Mr. CLARK of Wyoming. I desire to announce that my colleague [Mr. WARREN] is unavoidably detained from the city. He is paired with the senior Senator from Florida [Mr. FLETCHER]. I wish this announcement to stand for the day.

Mr. NEWLANDS, Mr. CRAWFORD, Mr. COLT, Mr. BANKHEAD, Mr. SHIELDS, Mr. SIMMONS, and Mr. CHILTON entered the Chamber and answered to their names.

The VICE PRESIDENT. Fifty Senators have answered to the roll call. There is a quorum present. The Secretary will read the Journal of the proceedings of the preceding session.

The Journal of the proceedings of the legislative day of Thursday, July 23, 1914, was read and approved.

CONSTRUCTION OF LOCKS AND DAMS (S. DOC. NO. 559).

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of the 13th instant, two tables showing the number of locks and dams constructed and operated by the Federal Government with the respective rivers or channels in which they are located, including the cost of construction of each, etc., and also the number of locks and dams now under construction, which, with the accompanying paper, was ordered to lie on the table and be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House agrees to the amendments of the Senate to the bill (H. R. 4988) to provide for the disposal of certain lands in the Fort Berthold Indian Reservation, N. Dak.

The message also announced that the House had passed the following bills, with amendments, in which it requested the concurrence of the Senate:

S. 4969. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

S. 5278. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

S. 5501. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors; and

S. 5899. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice President:

H. R. 16579. An act to authorize the construction of a bridge across St. John River at Fort Kent, Me.;

H. R. 16294. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; and

H. R. 17005. An act authorizing the fiscal court of Pike County, Ky., to construct a bridge across Tug Fork of the Big Sandy River at or near Williamson, W. Va.

PETITIONS AND MEMORIALS.

Mr. CHAMBERLAIN. I present a telegram from the Port of Columbia Commercial Club, port of Astoria, Oreg., which I ask may be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD as follows:

ASTORIA, OREG., *July 25, 1914.*

Hon. GEORGE E. CHAMBERLAIN,
*United States Senate, Washington, D. C.:*

We earnestly call your attention to the following resolutions passed unanimously at a mass meeting of the citizens of Astoria and the members of the Port of Columbia Commercial Club, held July 24, 1914. We request you to exhibit this telegram to Senators BORAH and BRADY, of Idaho; Senators JONES and POINDEXTER, of Washington; and Senators MYERS and WALSH, of Montana, and to see that the same is called to the attention of Senators BURTON, CUMMINS, KENYON, and all other oponents as well as friends of the pending rivers and harbors bill. The sentiment of the people of the Columbia Basin is practically unanimous for the passage of the rivers and harbors bill as recommended by the United States engineers. A great wrong will be done to a great region striving for development if rivers and harbors appropriations are defeated this year:

"*Resolved*, That we, the members of the Port of Columbia Commercial Club and citizens of Astoria, Oreg., insist on the immediate passage by the Senate of the United States of the rivers and harbors bill now pending, and hereby request the United States Senators from Oregon and their colleagues of Washington, Idaho, Montana, California, and Nevada to bend every effort to this end. Improvements of vital importance to the Pacific coast ports and inland waterways depend upon the speedy availability of the appropriations embraced in this bill.

"*Resolved*, That we have implicit confidence in the recommendations of the United States engineers who have given favorable reports on the various projects embraced in the pending bill, and that we go on record as favoring liberal expenditures of public money to provide water transportation for interior communities.

"*Resolved*, That we believe there is no 'pork' in the appropriation items relating to Pacific coast projects, and that, so far as other projects are concerned, we accept the judgment of the United States engineers, meanwhile calling the attention of the United States Senate to the fact that the River Clyde, from Glasgow to the sea, was once a shallow, unimportant stream, and possibly its improvement might once have been classed as 'pork.' It now floats millions of annual commerce.

"*Resolved*, That we remind our Senators that the port of Astoria is expending approximately $1,000,000 for the construction of the greatest municipal docks on the Pacific coast, that the Hill system of railroads is building ocean docks and terminals here which will cost several millions, and that the citizens of a tributary region of 300,000 square miles in area are vitally concerned in the appropriations, which shall open the Columbia River to free and uninterrupted navigation from its mouth to the interior. Also that the organization of steamboat lines to navigate said river and its tributaries depends upon the early completion of the Celilo Canal, an appropriation for which is included in said bill."

THE PORT OF COLUMBIA COMMERCIAL CLUB,
By ALFRED KINNEY, *President.*
E. M. CHERRY, *Secretary.*

We hereby concur in the above.

COLUMBIA AND SNAKE RIVER WATERWAYS ASSOCIATION,
By W. P. GRAY, *President.*
R. STRUBLE, *Secretary.*
WALLACE R. STRUBLE, *Secretary.*

Mr. JONES. I have telegrams in the nature of petitions from the secretary of the Commercial Club of Waitsburg, Wash.; one is from the Astoria National Bank, of Astoria, Oreg.; another is from the Vancouver Commercial Club, of Vancouver, Wash.; and another is from citizens of Astoria, Oreg., urging the prompt passage of the rivers and harbors bill. I ask that the telegrams may be printed in the RECORD.

There being no objection, the telegrams were ordered to be printed in the RECORD, as follows:

WAITSBURG, WASH., *July 22, 1914.*

Senator WESLEY L. JONES,
*Washington, D. C.:*

Waitsburg Commercial Club urges quick passage of rivers and harbors bill; essential to completion of Columbia River project.

E. L. WHEELER, *Secretary.*

—

ASTORIA, OREG., *July 24, 1914.*

Senator JONES, of Washington,
*Washington, D. C.:*

Respectfully urge best efforts for immediate passage of rivers and harbors bill.

ASTORIA NATIONAL BANK.

—

VANCOUVER, WASH., *July 24, 1914.*

Senator W. L. JONES, *Washington, D. C.:*

Vancouver Commercial Club urges prompt passage of rivers and harbors bill and looks to you to have our dredge included.

C. A. WATTS, *Secretary.*

—

ASTORIA, OREG., *July 26, 1914.*

Hon. WESLEY JONES,
*United States Senate, Washington, D. C.:*

Appreciating your former friendship for northwestern rivers and harbors, we earnestly request you to use your influence to secure passage of pending rivers and harbors bill in the United States Senate. Please see Senators CHAMBERLAIN and LANE and read resolutions telegraphed them from Astoria. Defeat of this bill would be a calamity for Pacific coast rivers and harbors, and particularly the Columbia Basin.

THE CITIZENS OF ASTORIA,
By ALFRED KINNEY,
*President Port of Columbia Commercial Club.*
COLUMBIA AND SNAKE RIVER WATERWAYS ASSOCIATION,
By WALLACE R. STRUBEL, *Secretary.*

Mr. JONES. I present a telegram from W. J. Kinney, president of the Vancouver Commercial Club, of Washington, which I ask may be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

VANCOUVER, WASH., *July 25, 1914.*

Hon. WESLEY L. JONES,
*United States Senate, Washington, D. C.:*

Whereas it has come to the knowledge of the Vancouver Commercial Club that there is a likelihood that the rivers and harbors bill now pending in Washington, D. C., will be defeated; and

Whereas the defeat of the river and harbor bill would be of tremendous financial loss and detriment to the progress and growth of the Columbia River Basin; and

Whereas it is of great benefit to the development of the Northwest that said bill pass, and particularly such parts as are tributary to the Columbia River Basin; and

Whereas it is the sense of the Commercial Club of Vancouver, Wash., represented in public assembly that the Representatives in Congress from the State of Washington use their utmost influence toward passing the river and harbor bill as now before Congress, and that said passage be procured if at all possible immediately: Therefore be it

*Resolved in public assembly at Vancouver, Wash., by the Commercial Club of said organization,* That the Representatives in Congress from

the State of Washington be urged to use every effort and influence possible for the passage of said bill at once, and that a copy of this resolution be sent to each Member of Congress from the State of Washington and one copy thereof placed on file in the Commercial Club records at Vancouver, Wash.

W. J. KINNEY,
*President Vancouver Commercial Club.*

Mr. JONES presented memorials of sundry citizens of the State of Washington, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of the State of Washington, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. SHEPPARD. I present a petition signed by a large number of citizens of Petersburg, Alaska, praying for the prohibition of the sale, manufacture, transportation, and importation of intoxicating liquors. The petition is short, and I ask that it may be read.

There being no objection, the petition was read and referred to the Committee on the Judiciary, as follows:

PETERSBURG, ALASKA, *June, 1914.*

We the undersigned earnestly petition for the passage by the United States Congress of the joint resolution introduced in the House of Representatives December 10, 1913, by Congressman RICHARD P. HOBSON, and on the same day introduced in the Senate by Senator MORRIS SHEPPARD, providing for the prohibition of the sale, manufacture for sale, transportation for sale, importation for sale, and exportation for sale of intoxicating liquors for beverage purposes in the United States and all Territories subject to the jurisdiction thereof.

Mr. CRAWFORD presented a petition of sundry citizens of Miner County, S. Dak., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. SMITH of Maryland presented petitions of sundry citizens of Baltimore, Md., praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. SHIVELY presented the memorials of George E. Coombes, Edward Hemke, and six other citizens, of Dearborn County, Ind., remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented the petitions of L. A. Shutt and Mrs. Elizabeth C. Jones, of Garrett, Ind., praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of the Retail Jewelers' Association of Laporte, Ind., praying for the enactment of legislation to prohibit time guaranties on watchcases, etc., which was referred to the Committee on Interstate Commerce.

Mr. GALLINGER presented the petition of Julia A. Robinson, of Derry, N. H., praying for a constitutional amendment for the national prohibition of the manufacture and sale of intoxicating liquor, which was referred to the Committee on the Judiciary.

Mr. JONES (for Mr. TOWNSEND) presented a petition of sundry citizens of Swartz Creek, Mich., praying for national prohibition, which was referred to the Committee on the Judiciary.

He also (for Mr. TOWNSEND) presented a memorial of sundry citizens of Mount Clemens, Mich., remonstrating against national prohibition, which was referred to the Committee on the Judiciary.

He also (for Mr. TOWNSEND) presented a petition of the Michigan State Veterinary Medical Association, praying for the enactment of legislation to render more efficient the veterinary service of the United States Army, which was referred to the Committee on Military Affairs.

### VETERAN ARMY OF THE PHILIPPINES.

Mr. MARTINE of New Jersey. Mr. President, I present a letter in the nature of a petition, which I ask may be read and that it, together with the accompanying resolutions, be referred to the Committee on Military Affairs. The letter refers to the veterans of the Spanish War residing in Manila. As I read the letter I feel that gross and manifest injustice is being done those who are there resident.

The letter is very short, and I simply ask that it may be read and that it and the resolutions adopted by the veterans may be sent to the Committee on Military Affairs.

The VICE PRESIDENT. Is there any objection? The Chair hears none, and the Secretary will read as requested.

The Secretary read the letter, as follows:

HEADQUARTERS DEPARTMENT
VETERAN ARMY OF THE PHILIPPINES,
UNITED SPANISH WAR VETERANS,
COMMITTEE ON CIVIL SERVICE,
*Manila, July 1, 1914.*

Senator MARTINE:

Inclosed please find a copy of a petition and resolution adopted by the Department Veteran Army of the Philippines, United Spanish War Veterans, which is self-explanatory.

As a Member of the United States Congress, elected by the constituents of your district for the purpose of assisting in the deliberations of Congress, and thus legislate for the benefit of all Americans, within and without, we feel that we are not trespassing by forwarding this petition to you, and we ask no more of you than that you peruse the same, and after careful deliberation do what your conscience may tell you to do for the purpose of assisting those of your countrymen, who find themselves between the devil and the deep sea.

If there is any further information which this committee can give you, please write to the undersigned.

Yours, very truly,

SIDNEY C. SCHUARZKOPF, *Chairman.*

Mr. MARTINE of New Jersey. I do not ask to burden the Senate with the reading of the resolutions, but I ask that they may be referred to the Committee on Military Affairs.

The VICE PRESIDENT. The letter and accompanying resolutions will be referred to the Committee on Military Affairs.

### REPORTS OF COMMITTEES.

Mr. CHAMBERLAIN, from the Committee on Commerce, to which was referred the bill (H. R. 12463) to authorize the withdrawal of lands on the Quinaielt Reservation, in the State of Washington, for lighthouse purposes, reported it without amendment and submitted a report (No. 711) thereon.

Mr. LEA of Tennessee, from the Committee on the Library, to which was referred the joint resolution (H. J. Res. 249) for the appointment of George Frederick Kunz as a member of the North American Indian Memorial Commission, reported it without amendment.

### MERRIMAC RIVER BRIDGE, LAWRENCE, MASS.

Mr. SHEPPARD. From the Committee on Commerce I report back favorably, without amendment, the bill (S. 6101) to grant the consent of Congress for the city of Lawrence, County of Essex, State of Massachusetts, to construct a bridge across the Merrimac River, and I submit a report (No. 710) thereon. I call the attention of the Senator from Massachusetts [Mr. WEEKS] to the bill.

Mr. WEEKS. Mr. President, I ask unanimous consent that the bill just reported by the Senator from Texas be given immediate consideration. It is a proposition to enable the city of Lawrence to proceed with the construction of a bridge across the Merrimac River. The matter has, of course, passed through the usual processes, so far as the city government is concerned; the Legislature of Massachusetts has passed a bill authorizing the construction of the bridge, subject to the approval of the War Department, and the War Department has approved the plans and the construction as proposed. The contract has been let; the work has commenced; and the only reason this legislation is required is because the Merrimac River is navigable in two States. Therefore it was assumed that this bridge could not technically come under the general bridge act. For that reason I hope there will be no objection to the immediate consideration of the bill.

The VICE PRESIDENT. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the city of Lawrence, county of Essex, State of Massachusetts, and its successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Merrimac River, at a point suitable to the interests of navigation, at or near the foot of Amesbury Street, in the city of Lawrence, in the county of Essex, in the State of Massachusetts, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

### BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. LEWIS:

A bill (S. 6160) providing for the extension of the post office at Galesburg, Ill.; to the Committee on Public Buildings and Grounds.

By Mr. SUTHERLAND:

A bill (S. 6162) authorizing issuance of patent for certain lands to Thomas L. Griffiths; to the Committee on Public Lands.

By Mr. LEA of Tennessee:

A bill (S. 6163) granting an increase of pension to Alwilda Wheeler; to the Committee on Pensions.

By Mr. LANE:

A bill (S. 6164) granting a pension to Mrs. Lewis T. Pierce; to the Committee on Pensions.

By Mr. CUMMINS:

A bill (S. 6165) to amend an act entitled "An act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and ap-

purtenances thereto," approved February 17, 1911; to the Committee on Interstate Commerce.

By Mr. KENYON:

A bill (S. 6166) granting an increase of pension to John Gossage; to the Committee on Pensions.

By Mr. THOMAS (by request):

A bill (S. 6167) to authorize the issuance during 1915 of a coin of the denomination of 25 cents, as may be required for the purpose of circulation, to commemorate the opening of the Panama Canal and the centenary of peace; to the Committee on Banking and Currency.

By Mr. WEEKS:

A bill (S. 6168) granting a pension to Odelon Valcour (with accompanying papers); to the Committee on Pensions.

By Mr. SHIVELY:

A bill (S. 6169) for the relief of Myron H. McMullen; to the Committee on Military Affairs.

By Mr. HUGHES:

A bill (S. 6170) providing for the refund of duties collected on hot-rolled flat steel iwer rods, about 3 inches in width and one-eighth of an inch in thickness, under the act of Congress approved June 24, 1897, and under the act of Congress approved August 5, 1909, imported subsequently to June 4, 1908, and prior to October 3, 1913; to the Committee on Finance.

A bill (S. 6171) for the relief of Daniel Delhagen; to the Committee on Military Affairs.

A bill (S. 6172) for the relief of Johannes T. Jensen; to the Committee on Claims.

By Mr. NEWLANDS:

A bill (S. 6173) granting an increase of pension to Paul de Chaine (with accompanying papers); to the Committee on Pensions.

WITHDRAWAL OF PAPERS.

On motion of Mr. PERKINS, it was—

*Ordered*, That the papers accompanying, and in support of, the bill S. 4721, Sixty-third Congress, second session, now pending before the Committee on Claims, be, and the same are hereby, withdrawn from the files of the Senate, no adverse report having been made on said bill.

USE OF TIDAL BASIN.

Mr. NORRIS submitted the following resolution (S. Res. 431), which was read, considered by unanimous consent, and agreed to:

*Resolved*, That the Commissioners of the District of Columbia be instructed to report to the Senate on the advisability and cost of converting the tidal basin in Potomac Park into a public bathing pool.

INTERNATIONAL HARVESTER CO. (S. DOC. NO. 558).

Mr. NELSON. I have a copy of the brief of the Government filed in the District Court of the United States for the District of Minnesota in the case of the United States Government against International Harvester Co. and others. I ask that the brief may be printed as a public document.

The VICE PRESIDENT. Without objection, it is so ordered.

LANDS IN PORT ANGELES, WASH.

Mr. JONES. I ask unanimous consent for the present consideration of the bill (S. 5701) providing for the disposal of certain lands in block 32, in the city of Port Angeles, State of Washington. It is a measure of purely local importance, and I am satisfied it will occasion no debate.

The VICE PRESIDENT. Is there objection to the request of the Senator from Washington?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill had been reported from the Committee on Public Lands with an amendment, on page 2, line 3, after the word "except," to strike out "three, to be selected by the Secretary of the Treasury," and insert "lots 1, 8, 9, and 10," so as to make the bill read:

*Be it enacted, etc.*, That all lots in block 32, in the city of Port Angeles, State of Washington, now reserved for Government purposes under an act entitled "An act providing for the reappraisement and sale of certain lands in the town site of Port Angeles, Wash, and for other purposes," approved March 16, 1912, except lots 1, 8, 9, and 10, shall be disposed of under and pursuant to the provisions of said act of March 16, 1912, and the Secretary of the Interior is hereby directed to proceed at once to carry out the provisions of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was rejected.

RITTENHOUSE MOORE.

Mr. BANKHEAD. Mr. President, I ask unanimous consent for the present consideration of the bill (S. 2359) for the relief of Rittenhouse Moore.

Mr. NEWLANDS. I will inquire what is the nature of the bill?

Mr. BANKHEAD. It is a little claims bill.

Mr. GALLINGER. Mr. President, I inquire if morning business has closed?

The VICE PRESIDENT. It has not.

Mr. NEWLANDS. I ask the Senator if he thinks the bill will occasion any debate?

Mr. BANKHEAD. I will say to the Senator that I do not think it will.

Mr. GALLINGER. Mr. President, it seems to me we might spend an hour or two, profitably, on this delightful morning in disposing of bills on the calendar. I will not object to the Senator's request, if the bill is important.

Mr. BANKHEAD. I do not think it will occasion any debate.

The VICE PRESIDENT. Is there objection to the request of the Senator from Alabama?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury to pay to Rittenhouse Moore $3,650.05, in full settlement for the amount stated and claimed by him as set forth in House Document No. 100, Fifty-eighth Congress, second session, for dredging in the Potomac River below Washington, D. C., and recommended by the Secretary of War, as therein shown.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LANDS IN CADDO COUNTY, OKLA.

Mr. OWEN. I ask unanimous consent for the present consideration of the bill (H. R. 9829) authorizing the Secretary of the Interior to sell certain unused remnant lands to the board of county commissioners of Caddo County, Okla., for fairground and park purposes. This is a purely local bill, providing for a county fair to secure part of a quarter section of land.

Mr. CUMMINS. Mr. President, we have not, as I understand, finished morning business. There is a resolution coming over from a previous day that I am anxious to have disposed of, and I must object to any further request for unanimous consent to consider bills until we have disposed of morning business.

Mr. OWEN. Mr. President, I should like to call the attention of the Senator to the fact that this bill was reported on May 1, and has been on the calendar since that time, and unless it is acted upon the county fair association can not use the land this season.

Mr. CUMMINS. I have no objection to the bill, but I desire that the regular order shall be proceeded with until we dispose of morning business.

Mr. GALLINGER. I call for the regular order.

Mr. OWEN subsequently said: Mr. President, I renew my request for the present consideration of the bill referred to by me a moment ago. If there is any objection to the bill I shall not urge its consideration. It simply provides that this county board may acquire 110 acres of ground for county fair purposes. It is a short bill.

The VICE PRESIDENT. What is the calendar number of the bill?

Mr. OWEN. Four hundred and seven.

Mr. SMOOT. Mr. President, I will say to the Senator that I have no objection to the bill, but if we are going to consider bills this morning I think we ought to take up the calendar in regular order. We have been for the last month or so trying to get consideration of the calendar, and we have been unable to do so up to this time. I do not believe it is right to have bills picked out from the calendar and considered, and allow other bills that have been here for months and months to go without consideration.

Mr. OWEN. This bill has been on the calendar since the 1st of May. The next county fair will be held in September, and unless the bill passes very shortly the county authorities will be unable to use the land for the purpose this season.

Mr. SMOOT. What is the calendar number of the bill?

Mr. OWEN. Four hundred and seven.

Mr. BRANDEGEE. Mr. President, I demand the regular order.

MEETINGS OF COMMITTEES DURING SESSIONS OF SENATE.

The VICE PRESIDENT. The Chair lays before the Senate a resolution coming over from a preceding day, which will be read.

The Secretary read the resolution (S. Res. 430) submitted by Mr. CUMMINS on the 23d instant, as follows:

*Resolved*, That from and after the passage of this resolution, and until otherwise ordered, all permits given in resolutions, orders, or

otherwise authorizing standing or select committees to sit during the sessions of the Senate are hereby rescinded, except in the case of the Committee on Naval Affairs, now considering S. Res. 291.

The VICE PRESIDENT. The question is on agreeing to the resolution.

The resolution was agreed to.

DEFICIENCY APPROPRIATIONS.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendment of the Senate numbered 158 to the bill (H. R. 17824) making appropriations to supply deficiencies in appropriations for the fiscal year 1914 and for prior years and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. MARTIN of Virginia. I move that the Senate further insist on its amendment numbered 158, agree to the further conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Vice President appointed Mr. MARTIN of Virginia, Mr. BRYAN, and Mr. GALLINGER conferees at the further conference on the part of the Senate.

PENSIONS AND INCREASE OF PENSIONS.

The VICE PRESIDENT laid before the Senate the amendments of the House to the bill (S. 4969) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

Mr. SMOOT. I move that the Senate disagree to the amendments of the House, request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to, and the Vice President appointed Mr. JOHNSON, Mr. HUGHES, and Mr. SMOOT conferees on the part of the Senate.

The VICE PRESIDENT laid before the Senate the amendments of the House to the bill (S. 5278) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

Mr. SMOOT. I move that the Senate disagree to the amendments of the House, request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to, and the Vice President appointed Mr. JOHNSON, Mr. HUGHES, and Mr. SMOOT conferees on the part of the Senate.

The VICE PRESIDENT laid before the Senate the amendments of the House to the bill (S. 5501) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

Mr. SMOOT. I move that the Senate disagree to the amendments of the House, request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to, and the Vice President appointed Mr. JOHNSON, Mr. HUGHES, and Mr. SMOOT conferees on the part of the Senate.

The VICE PRESIDENT laid before the Senate the amendments of the House to the bill (S. 5899) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

Mr. SMOOT. I move that the Senate disagree to the amendments of the House, request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to, and the Vice President appointed Mr. JOHNSON, Mr. HUGHES, and Mr. SMOOT conferees on the part of the Senate.

EULOGIES ON THE LATE REPRESENTATIVE RODDENBERY.

Mr. SMITH of Georgia. Mr. President, it had been the purpose this morning of the junior Senator from Georgia [Mr. WEST] to ask that the House resolutions upon the death of late Representative RODDENBERY, of Georgia, be laid before the Senate. He has, however, been called away necessarily to the White House, and I ask unanimous consent that, even though the business of the morning hour be finished, the Senator from Georgia may be allowed this morning to call up the resolutions to which I refer.

Mr. CUMMINS. I did not hear distinctly the statement of the Senator from Georgia.

Mr. SMITH of Georgia. I have suggested that the junior Senator from Georgia desires to call up this morning the House resolutions on the death of late Representative RODDENBERY, of Georgia, and to ask action thereon, but he has been called out of the Senate on business and was compelled to respond. I ask unanimous consent that upon his return during the day he may be allowed to call up these resolutions, even though it be after the morning hour.

Mr. CUMMINS. That is, to call up resolutions during the consideration of the Federal trade commission bill? If we have a morning hour to-morrow, the Senator from Georgia, of course, could then call up the resolutions.

Mr. SMITH of Georgia. I do not think we will have a morning hour to-morrow. That is the reason why I am so anxious to get the resolutions disposed of to-day.

Mr. CUMMINS. Is not the suggestion of the Senator from Georgia one of the reasons why we should have a morning hour?

Mr. SMITH of Georgia. Yes; but there are other reasons why we should not.

Mr. CUMMINS. Which are the stronger reasons?

Mr. SMITH of Georgia. I think those that we should not.

Mr. CUMMINS. Very well, then, Mr. President.

The VICE PRESIDENT. The Chair lays before the Senate resolutions of the House of Representatives which will be read.

The Secretary read as follows:

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
*February 8, 1914.*

*Resolved*, That the business of the House be now suspended that opportunity may be given for tributes to the memory of Hon. SEABORN ANDERSON RODDENBERY, late a Member of this House from the State of Georgia.

*Resolved*, That as a particular mark of respect to the memory of the deceased and in recognition of his distinguished public career, the House at the conclusion of these exercises shall stand adjourned.

*Resolved*, That the Clerk communicate these resolutions to the Senate.

*Resolved*, That the Clerk send a copy of these resolutions to the family of the deceased.

Mr. SMITH of Georgia. Mr. President, I regret the absence of the junior Senator from Georgia [Mr. WEST] who is at the White House. He had intended at this time to present the following resolutions, which I present for him, and which I send to the desk and ask to have read.

The Secretary read the resolution (S. Res. 432), as follows:

*Resolved*, That the Senate has heard with deep regret the announcement of the death of Hon. SEABORN ANDERSON RODDENBERY, late a Representative from the State of Georgia, which occurred September 26, 1913.

*Resolved*, That as a mark of respect to the memory of the deceased Representative the business of the Senate be now suspended in order to pay proper tribute to his high character and distinguished public services.

*Resolved*, That the Secretary communicate a copy of these resolutions to the House of Representatives and to the family of the deceased.

Mr. SMITH of Georgia. Mr. President, SEABORN ANDERSON RODDENBERY, one of the best men who ever came from Georgia to the House of Representatives, died in the very prime of manhood. Young though he was, he had accomplished much. From his earliest youth he was a worker. His activities were divided between the farm and the study. Sturdily he labored tilling the soil, yet never failed to avail himself of every means to gratify his thirst for knowledge. No man ever entered legislative halls better equipped than he.

Born on a farm in 1870, he was educated in the common schools of his county and at Mercer University. After leaving the university he taught school and studied law. When less than 20 years of age he was professor of languages and mathematics at the South Georgia College. When little more than 21 he was sent to the legislature by the people of Thomas County, and there served his State for two years. In rapid succession he was mayor of Thomasville, president of the board of education of Thomas County, judge of the county court for four years, and finally a Representative in Congress.

Judge RODDENBERY was essentially a man of the people. His sympathies were with them, and they knew it. None so poor, none so humble, but felt free to go to him at any time for counsel or assistance. Always that counsel was given without ostentation; always that aid was rendered with painstaking care. Like all strong men, he was gentle in his bearing, patient, tolerant in his attitude toward the opinions of others, while holding firmly to his own carefully formed convictions.

Judge RODDENBERY's life made for the uplift of the race. His thoughts and acts ennoble life. He left the world better for having lived and labored in it. He was a man in whose association and friendship there was genuine inspiration. It will always be a source of pleasure to me to have known him and to have been able to count him a true friend.

It can be said of him with absolute truth that selfishness was not in him. As in private life so in his public career, the noblest altruism governed his every act. His protestations of solicitude for his people were not mere lip service; they came from the heart. Every one of his constituents had an ever-present claim upon his services. This service was rendered freely, ungrudgingly; not from any sense of obligation, personal or political, but because he loved to help and do kind deeds. "I serve" was the motto which ruled every moment of his life.

As a Member of the House of Representatives he bore himself modestly but with firm adherence to principles he had established and convictions he had formed. His voice and his vote were untrammeled. Flattery and applause he heeded little, and censure did not move him.

This phase of his character is strikingly illustrated in his record on pension legislation. He had made a study of the process of lawmaking whereby the pension payments of the Government have been brought to their present inexcusable proportions, notwithstanding the fact that the Union survivors of the War between the States are dying by the thousands every year. Judge RODDENBERY, while entertaining the kindest feelings for the invalid veterans, utterly repudiated the theory of increasingly liberal bounty to persons who had not borne the brunt of the strife. He reached the conclusion that much of this latter-day pension legislation was pure graft, and with this conviction firmly fixed in his mind he combated every proposition which in his opinion went beyond the bounds of justice and the moral obligations of the Government.

Bill after bill was met by his opposition. His arguments—persistently, consistently, and insistently, inveighing against surrendering the hard-earned money of the working people to what he looked upon as the loot of the Treasury—were cutting as the Damascene blade. He did not deal in rounded phrases of flowery rhetoric, but struck with all the force that outraged conviction and intensest indignation could lend to his words.

It was a fight foreordained to defeat. He must have felt that he was leading a forlorn hope against every one of the acts he antagonized. Only a mere handful of men came to his aid, and with him were overwhelmed in the onslaught. Undaunted he returned to the fray. Defeat could not conquer his purpose. He fought for the right as he saw the right. From the path he had marked out for himself neither the pleadings of friends nor the taunt of adversaries could swerve him.

Perhaps I am dwelling too long upon this incident of Judge RODDENBERY's work as a Member of the House of Representatives, but I do so because it illumines more clearly than any other the pervading trait of his character—adherence to righteous purpose. Among the last words he uttered before his spirit fled from this mortal tenement were these: "I have lived my convictions." His convictions—they were the guiding star in every act of his life. How few and far between are the men who at the close of their lives can lay that comfort to their souls.

Judge RODDENBERY was a tireless student. His reading was broad. It embraced every field of thought. Classic lore was to him familiar ground. From the history of nations he never failed to find useful lessons. In philosophical literature he took especial delight. His chosen profession—the law—had in him a most conscientious, untiring member. His keen, analytical habit of thought made him strong before the bench. Before juries he was almost irresistible.

He was devoted to agriculture. With him the cultivation of the soil was not a mere breadwinning occupation. He felt that agriculture is the mainstay of the State and the farmer the most important factor in the economic life of the Nation. While he delighted in sowing the seed, watching the growth of the crops, and rejoiced in the harvest, it was his pleasure to trace the history of agriculture even to the farthest antiquity.

Nor was he content simply to absorb stores of knowledge. He delighted in giving it currency among his friends and neighbors. He was always ready to respond to a summons to address meetings of farmers and give them the benefit of his studious research. Of all the membership of the Congress none surpassed him in the scrutiny of the publications emanating from the Department of Agriculture. Nothing pleased him more than to be able to point out to his people some new way of enriching the soil and how to make two blades of grass grow where before there grew but one. It has been said, "He is indeed the wisest and the happiest man who, by constant attention of thought, discovers the greatest opportunity of doing good, and with ardent and animated resolution breaks through every opposition that he may improve these opportunities." To no man that I have every known do these words apply with more striking force than to ANDERSON RODDENBERY.

Mr. President, in contemplating the career of a public man and seeking to pronounce deserved eulogium upon him, we sometimes lose sight of his private life; and yet some of the most beautiful lessons may be drawn from the life in the home.

> The sphere of harmony and peace,
> The spot where angels find a resting place
> When, bearing blessings, they descend to earth.

Rare Ben Jonson said that—

> To be happy at home is the ultimate result of all ambition; the end to which every enterprise and labor tend, and of which every desire prompts the prosecution.

Such happiness my friend enjoyed. His home was the mainspring that set in motion all his energies. In his home centered his dearest affections, his aspirations, his ambitions. To bring happiness to that home and to the loved ones who dwelt therein was the highest aim of his rarely beautiful life. There the gentlest side of his nature unfolded itself like a beautiful flower. There his affections had their fullest play. There he loved and was beloved by wife and children. In his home the strife of the world was stilled; it was, indeed, to him a sacred refuge.

So, also, was Judge RODDENBERY blessed in his friendships. In him the elements of strength and gentleness were so blended that he attracted men as naturally as the magnet draws the iron. They felt that they could place reliance upon his every word. They knew that he would not fail them in any strait. No wonder, then, that when his remains were borne to their last resting place among his people there was mourning in all the counties of his district. It was as if every family had lost one of its household. He has written his epitaph in the hearts of all of them, and we may regard it inscribed there as it was expressed in a letter from the aged pastor who received him into the church, and who pronounced the last benediction at the grave. That venerable man wrote:

> He was the friend and adviser of the poor. For the struggling boy or girl who desired an education his means were largely employed. He was the friend that you could count on at all times and under all circumstances. He was bold and aggressive in his advocacy of what he conceived to be right; true and loyal to his friends and to the cause he espoused.

Mankind, Mr. President, is under obligations to a man for great thoughts, or great deeds, or great devotion to principle; for clean living, and for the good example it sets. Measured by that standard, we owe a great debt to the memory of our departed friend, which best we may discharge by trying to live as he lived; to be moved by the loftiest dictates of patriotism; to crush selfishness; to strive, as he strove, to obey the injunction of the Master, to do unto others even as we would that others do unto us.

It is not given to frail human nature to attain perfection, but each and every one of us may well be satisfied if when the final summons comes he can say to himself, as did ANDERSON RODDENBERY: "I have lived my convictions."

I move the adoption of the resolutions.

The resolutions were unanimously agreed to.

Mr. SMITH of Georgia Mr. President, the House has passed a bill authorizing the ground around the Government building at Thomasville, where Mr. RODDENBERY lived, to be known as Roddenbery Park, and authorizing the Secretary of the Treasury to accept from the city several other blocks that the city intends to give to the Government around the Government building, the entire ground to be called Roddenbery Park. The House bill authorizes the Secretary of the Treasury to make rules and regulations by which the city of Thomasville is to maintain Roddenbery Park.

For the Senator from Virginia (Mr. SWANSON) I report back favorably from the Committee on Public Buildings and Grounds the bill H. R. 15110 and ask unanimous consent for its immediate consideration and, as a compliment to Mr. RODDENBERY's memory, to have it passed unanimously by the Senate, as it was passed unanimously by the House. I ask that the bill be considered at this time.

The VICE PRESIDENT. Is there objection?

Mr. GALLINGER. Let the bill be read.

Mr. CUMMINS. I do not understand that this is to be considered as a precedent.

Mr. SMITH of Georgia. I do not think it will be a precedent.

The Secretary read the bill, as follows:

> A bill (H. R. 15110) authorizing the Secretary of the Treasury to accept conveyance of title to certain land between the post-office site and Madison Street in the city of Thomasville, Ga.
>
> *Be it enacted, etc.*, That the post-office site, except where buildings, further addition, and approaches are now or may hereafter be located, may, in the discretion of the Secretary of the Treasury, be used as a public park, to be known as Roddenbery Park, to be maintained by the city of Thomasville, under regulations prescribed from time to time by the Secretary of the Treasury.

That the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to accept conveyance of title to the land between the post-office site and Madison Street, in the city of Thomasville, Ga., and the said land so acquired shall thereupon become part of said post-office site: *Provided*, That the said enlarged post-office site, except where buildings, further additions, and approaches are now or may hereafter be located, may, in the discretion of the Secretary of the Treasury, be used as a public park, to be known as Roddenbery Park, to be maintained by the city of Thomasville, under regulations to be prescribed from time to time by the Secretary of the Treasury.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DAILY SESSIONS.

Mr. KERN. I ask for the adoption of the following order.

The VICE PRESIDENT. The order will be read.

The Secretary read as follows:

*Ordered*, That until otherwise ordered, the sessions of the Senate shall be from 11 o'clock a. m. until 6 o'clock p. m., at which last hour a recess shall be taken.

Mr. SMOOT. I have not any objection at all to holding daily sessions from 11 to 6 o'clock, but does not the Senator think that the adoption of this order may cause the Senate considerable trouble at times by providing that we shall take a recess at 6 o'clock?

Mr. KERN. I do not think it would.

Mr. GALLINGER. I suggest to the Senator to make it read "not later than 6."

Mr. SMOOT. "Not later than 6 o'clock."

Mr. GALLINGER. It might be convenient to take a recess 5 or 10 minutes earlier than 6, or something like that.

Mr. KERN. I will state to the Senator that I had it in mind that in such a case it could be arranged by unanimous consent.

Mr. SMOOT. Not as against a standing order, I should think. I should think it would be very much better to put in the words "not later than 6 o'clock," and then if we should want to take a recess a few minutes before 6 it would not make any difference.

Mr. BRANDEGEE. I ask that the proposed order may be restated by the Secretary.

The VICE PRESIDENT. The order will be again read.

The Secretary read as follows:

*Ordered*, That until otherwise ordered, the sessions of the Senate shall be from 11 o'clock a. m. until 6 o'clock p. m., at which last hour a recess shall be taken.

Mr. SMOOT. If the Senator will make it read "not later than 6 o'clock," I think everything will be gained that he desires by the order as it stands.

Mr. KERN. That can be remedied at any time by unanimous consent. I am certain that there will be no difficulty about it.

Mr. SMOOT. I have no objection to the adoption of the order.

The VICE PRESIDENT. The question is on agreeing to the order.

The order was agreed to.

FEDERAL TRADE COMMISSION.

The VICE PRESIDENT. The calendar under Rule VIII is in order.

Mr. NEWLANDS. I move that the unfinished business, House bill 15613, the trade commission bill, be now taken up.

The VICE PRESIDENT. The Senator from Nevada moves that the Senate proceed to the consideration of House bill 15613, to create an interstate trade commission, to define its powers and duties, and for other purposes. [Putting the question.] By the sound the ayes seem to have it.

Mr. BRANDEGEE. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHILTON (when his name was called). I have a pair with the Senator from New Mexico [Mr. FALL], but under the terms of it I can vote on this question. I vote "yea."

Mr. COLT (when his name was called). I have a general pair with the junior Senator from Delaware [Mr. SAULSBURY]. In his absence I withhold my vote.

Mr. CLAPP (when his name was called). I have a general pair with the senior Senator from North Carolina [Mr. SIMMONS], and in his absence I withhold my vote.

Mr. CRAWFORD (when his name was called). I have a general pair with the senior Senator from Tennessee [Mr. LEA], who is not present. I will pass my vote for the present.

Mr. GRONNA (when his name was called). I have a general pair with the senior Senator from Maine [Mr. JOHNSON]. He is not present, and not knowing how he would vote I withhold my vote.

Mr. KERN (when his name was called). I have a general pair with the senior Senator from Ohio [Mr. BURTON], which I transfer to the Senator from Louisiana [Mr. RANSDELL] and vote "yea."

Mr. LEWIS (when the name of Mr. LEA of Tennessee was called). I desire to announce that the Senator from Tennessee [Mr. LEA] has been called temporarily out of the Chamber on official business.

Mr. PERKINS (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN]. In his absence I withhold my vote.

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT], which I transfer to the Senator from Nebraska [Mr. HITCHCOCK] and vote "yea."

Mr. TILLMAN (when his name was called). I transfer my pair with the Senator from West Virginia [Mr. GOFF] to my colleague [Mr. SMITH of South Carolina] and vote "yea."

Mr. WALSH (when his name was called). I transfer my pair with the Senator from Rhode Island [Mr. LIPPITT] to the Senator from New Jersey [Mr. HUGHES] and vote "yea."

Mr. WEEKS (when his name was called). I have a general pair with the senior Senator from Kentucky [Mr. JAMES]. In his absence I withhold my vote.

Mr. WILLIAMS (when his name was called). I transfer my general pair with the senior Senator from Pennsylvania [Mr. PENROSE] to the Senator from Arizona [Mr. SMITH]. I ask that this announcement of pair and transfer may stand for the day. I vote "yea."

The roll call was concluded.

Mr. CHAMBERLAIN. I have a general pair with the Senator from Pennsylvania [Mr. OLIVER], which I transfer to the senior Senator from Virginia [Mr. MARTIN] and vote "yea."

Mr. CAMDEN. I desire to announce the unavoidable absence of my colleague [Mr. JAMES]. He is paired with the Senator from Massachusetts [Mr. WEEKS]. I will let this announcement stand for the day.

Mr. TILLMAN. I was requested to announce that the Senator from Florida [Mr. BRYAN] is unavoidably absent attending the business of the Senate conducting the coal investigation.

Mr. MYERS. I have a pair with the Senator from Connecticut [Mr. MCLEAN], who is necessarily absent from the city. I transfer that pair to the Senator from Florida [Mr. BRYAN] and vote "yea."

Mr. GALLINGER. I was requested to announce that the Senator from Michigan [Mr. SMITH] is paired with the Senator from Missouri [Mr. REED]; that the Senator from Wisconsin [Mr. STEPHENSON] is paired with the Senator from Oklahoma [Mr. GORE]; that the Senator from Michigan [Mr. TOWNSEND] is paired with the Senator from Arkansas [Mr. ROBINSON]; that the Senator from Wyoming [Mr. WARREN] is paired with the Senator from Florida [Mr. FLETCHER]; that the Senator from Vermont [Mr. DILLINGHAM] is paired with the Senator from Maryland [Mr. SMITH]; and that the Senator from Delaware [Mr. DU PONT] is paired with the Senator from Texas [Mr. CULBERSON].

Mr. SIMMONS entered the Chamber and voted "yea."

The result was announced—yeas 43, nays 6, as follows:

YEAS—43.

| | | | |
|---|---|---|---|
| Ashurst | Jones | O'Gorman | Sterling |
| Bankhead | Kenyon | Owen | Stone |
| Brady | Kern | Page | Swanson |
| Bristow | Lane | Pittman | Thomas |
| Camden | Lee, Md. | Pomerene | Thornton |
| Chamberlain | Lewis | Saulsbury | Tillman |
| Chilton | Martine, N. J. | Shafroth | Vardaman |
| Clarke, Ark. | Myers | Sheppard | Walsh |
| Crawford | Nelson | Shields | White |
| Cummins | Newlands | Simmons | Williams |
| Hollis | Norris | Smith, Ga. | |

NAYS—6.

| | | | |
|---|---|---|---|
| Brandegee | Clark, Wyo. | Smoot | Sutherland |
| Catron | Gallinger | | |

NOT VOTING—47.

| | | | |
|---|---|---|---|
| Borah | Gore | Martin, Va. | Smith, Ariz. |
| Bryan | Gronna | Oliver | Smith, Md. |
| Burleigh | Hitchcock | Overman | Smith, Mich. |
| Burton | Hughes | Penrose | Smith, S. C. |
| Clapp | James | Perkins | Stephenson |
| Colt | Johnson | Poindexter | Thompson |
| Culberson | La Follette | Ransdell | Townsend |
| Dillingham | Lea, Tenn. | Reed | Warren |
| du Pont | Lippitt | Robinson | Weeks |
| Fall | Lodge | Root | West |
| Fletcher | McCumber | Sherman | Works |
| Goff | McLean | Shively | |

So the motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

The VICE PRESIDENT. The pending question is on the amendment proposed by the Senator from Nevada [Mr. NEWLANDS] to section 5.

Mr. SUTHERLAND. What is the proposed amendment?

The VICE PRESIDENT. The Secretary will read the amendment.

The SECRETARY. The pending amendment is that of the Senator from Nevada [Mr. NEWLANDS] to add at the end of section 5 the following proviso:

*Provided*, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

Mr. SUTHERLAND. Mr. President, I should like to ask the author of the amendment whether, in a case regularly prosecuted in the court, in which final judgment was rendered by the court in favor of the defendant, his proposed amendment would preclude the pleading and use of that judgment in evidence as an estoppel in a subsequent case brought upon the same facts?

Mr. NEWLANDS. The amendment, as I understand it, simply declares that in any proceeding under the antitrust act no order or finding made either by the commission or the court under section 5 shall be admissible in evidence. I will state that this amendment was, as I said the other day, drawn by the Senator from Iowa [Mr. CUMMINS], and it is segregated into two parts. I would be very glad if the Senator from Iowa would give his views regarding it.

Mr. SUTHERLAND. I should like to have the view of the Senator from Nevada, who proposes the amendment and is the proponent of the bill, as to what the effect of the language would be?

Mr. NEWLANDS. I have given my individual views again and again. So far as I am concerned individually I would trust to the commission the entire administration and enforcement of the antitrust law. But my individual views on that subject are not likely to prevail. There is a disposition to prevent the commission from taking the place of the Attorney General's office in the enforcement of the law, and to that I yielded. The Senator from Iowa introduced an amendment providing that no order or finding under section 5 should be admitted in evidence in any antitrust proceeding. That amendment I have accepted.

Mr. SUTHERLAND. The answer of the Senator from Nevada can hardly be described as a categorical answer to the question which I put. The language of this amendment is—

*Provided*, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

If exactly the same question should be presented—I am not saying that it would be, but if exactly the same question that was presented in the first proceeding before the court should be presented in the subsequent suit—does the Senator understand that this amendment would preclude the use by the defendant of the finding or judgment of the court in the first suit as an estoppel to the proceeding in the second suit, covering identically the same question? Does the Senator from Nevada think that would follow?

Mr. CUMMINS. Will the Senator from Utah permit me to answer the question?

Mr. SUTHERLAND. Certainly.

Mr. CUMMINS. My first observation is that it is impossible that the case suggested by the Senator from Utah should arise. A prosecution under the antitrust law charges either a restraint of trade, a monopoly, or an attempt to monopolize. The prosecution must involve one or the other of those charges; and the issue presented to the court is, Is the defendant guilty of a restraint of trade, guilty of an attempt to monopolize, or guilty of maintaining a monoply? A suit under section 5 must necessarily charge unfair competition, and the action of the commission and the action of the court would be no more than to find either that the defendant had been guilty of unfair competition or had not been guilty of unfair competition.

Mr. SUTHERLAND. Let me ask the Senator would it be sufficient in any proceeding finally brought into court to simply charge unfair competition? Would it not be necessary to set forth the acts which constituted the unfair competition?

Mr. CUMMINS. Undoubtedly.

Mr. SUTHERLAND. Unfair competition is a mere conclusion of law.

Mr. CUMMINS. I was about to proceed to that part of the inquiry.

Mr. SMITH of Georgia. The copy which I have of the amendment uses the words "this section," but does not name the section.

Mr. CUMMINS. It is a proposed amendment to section 5, so that it is identified in that way. In charging restraint of trade or monopoly it is, of course, necessary that the pleader shall state the facts which in his opinion constitute the restraint of trade or the monopoly or the attempt to monopolize, and in a suit under section 5 it would be necessary for the pleader to state the facts which in his opinion constituted unfair competition. But the order of the court or the commission in the latter case would be simply that the defendant had been guilty of unfair competition. The order of the court in the former case would be simply that the defendant had restrained trade or monopolized. It is the purpose of this amendment to prevent the judgment in one case becoming res adjudicata in the other case.

I do not believe the existence of any particular fact could be so segregated from the judgment or the finding of the court in either case as to make it wise that there should be an adjudication upon that one fact. Suppose, for instance, that in the allegation of unfair competition it were charged that the defendant had for a long series of months sold the product in which he dealt so far below actual cost as to indicate a purpose not to continue to trade legitimately but to injure and destroy a particular competitor; that one fact might be material in prosecutions under the antitrust law, and also in prosecutions for unfair competition; but I do not believe that the judgment of the court or the order of the commission under this section, even though it involved, or might involve, the existence of that fact, should be pleaded as an adjudication of that particular fact in a suit under the antitrust law.

Mr. CRAWFORD. Mr. President——

Mr. CUMMINS. Just one moment. The reason for my conclusion, I think, is obvious. It is, of course, within the discretion of the prosecuting officer or the prosecuting attorney under either the antitrust law or under section 5 of this bill, as it is within the discretion of the defendant in either case, to bring forward such testimony as he thinks ought to be brought forward with reference to the broad issue in the one case of restraint of trade, and in the other case of unfair competition.

It would not be fair either to the Government or to the defendant to say that a fact which might have varying degrees of materiality and of persuasiveness should be taken as established under the antitrust law because of the testimony that was offered with regard to it in a prosecution under this section. Therefore, the attempt is to keep the prosecution in the two cases entirely separate and distinct. Now I yield to the Senator from South Dakota.

Mr. CRAWFORD. Might this not be material testimony and entitled to some weight as testimony of value, and at the same time not have the potency of reaching to a res adjudicata or being accepted as conclusive in an action brought under the antitrust act and yet be valuable as proving a fact which with a chain of other facts might constitute an offense under this statute, and as such be competent testimony?

Mr. CUMMINS. Mr. President, I do not so understand. I may be wrong with regard to the opinion I am about to announce, but my view of the law is that when a judgment of a court rendered between the parties is admissible at all in any other judicial proceeding it is final and conclusive, because it is an adjudication of a competent tribunal of that fact between those parties.

Mr. SUTHERLAND. It is evidence, however, even if it be conclusive evidence.

Mr. CUMMINS. That is precisely what I say—it is conclusive evidence; and I think it would be unwise to impose upon either the plaintiff or the defendant the burden of conclusive evidence when that evidence may be thought not material, or, if material, may be of slight value, and therefore not very much considered, when one issue is being tried and very important or vital when another issue is being tried.

Mr. SMITH of Georgia. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Georgia?

Mr. CUMMINS. I do.

Mr. SMITH of Georgia. This amendment provides:

That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

Is that intended to exclude the finding of the commission as even prima facie evidence where application is made to enforce the order of the commission in a particular case?

Mr. CUMMINS. No. The Senator from Georgia has not observed that this inhibition is against the admissibility of the order of the court or of the commission in a suit brought to enforce the provisions of the antitrust laws.

Mr. SMITH of Georgia. Well, its provisions make the very bill we have before us one of the antitrust laws.

Mr. CUMMINS. No, Mr. President; I think the Senator from Georgia is in error about that. The antitrust laws referred to in this bill are, first, the act of 1890, known as the Sherman antitrust law; secondly, the two acts which are found in the tariff laws relating to trusts and monopolies. This reference does not include the proposed statute we are now discussing.

Mr. SMITH of Georgia. Well, the bill reported from the Judiciary Committee will undoubtedly be added to what are called antitrust laws, and that bill contemplates making the finding of the commission prima facie evidence in the courts in actions to enforce its provisions.

Mr. CUMMINS. I think the Senator from Georgia is right about that being the phraseology of the bill reported by the Judiciary Committee. That bill when enacted will be a part of the antitrust laws and will be included within the definition of the first section, but that is not true of this proposed act.

Mr. SMITH of Georgia. Will not this provision declaring "unfair competition" to be unlawful become one of the antitrust laws?

Mr. CUMMINS. The antitrust laws which are enumerated in this act are found on page 13 of the bill. I will read that reference so that there can be no future doubt about it. It is as follows:

"Antitrust acts" means the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890; also sections 73 to 77, inclusive, of an act entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August 27, 1894; and also the act entitled "An act to amend sections 73 and 76 of the act of August 27, 1894, entitled 'An act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February 12, 1913.

Mr. SMITH of Georgia. Then it is not the purpose of this amendment to prevent the findings of the commission from being used at least as prima facie evidence in a legal proceeding to enforce the finding of the commission?

Mr. CUMMINS. If I may be permitted a reply, what is intended is this: We have in mind, of course, mainly the antitrust act of 1890; the others may be dismissed for the present, because they are not material in this discussion.

One of the sections—I think section 4 of that act—provides that the Government can bring a suit to enjoin any person or corporation from restraining trade or monopolizing or attempting to monopolize it; but those suits have been so frequently brought, and they have been so prominent in the discussion of this subject, that they are prefectly well known and their character, of course, thoroughly understood.

The purpose of this amendment is to prevent any order of either commission or court in a proceeding respecting unfair competition, under section 5, from becoming admissible in evidence in a suit brought by the United States under the antitrust act of 1890 where the issue is not unfair competition, but restraint of trade or monopoly.

Mr. SMITH of Georgia. Then would it not be well to say "the antitrust act of 1890," instead of "the antitrust acts"? We expect to call the Clayton bill, when it is passed, one of the antitrust acts, and will we not get into a conflict?

Mr. CUMMINS. I think this reference is just as necessary, so far as the Clayton bill is concerned, as it is with reference to the antitrust act of 1890. The purpose is to keep these things apart, so that when different offenses are charged the testimony and the findings of the court in one case shall not be controlling in another.

As I said the other day, from a strictly legal point of view I do not regard the amendment as necessary; I do not believe these orders and findings would be admissible under the well-established principles of the law; but I want, if I can—and that was the purpose of my amendment—to make it impossible for anybody to assert that we were in this bill endeavoring to emasculate or to destroy the efficiency of the antitrust act of 1890.

Mr. LEWIS. Mr. President——

Mr. CUMMINS. I yield to the Senator from Illinois.

Mr. LEWIS. Mr. President, I should like to ask the able Senator from Iowa whether a given premises which I shall now prescribe is not likely to arise to the disadvantage of a defendant. I illustrate: The amendment tendered by the Senator and proposed by the chairman provides—

That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

I observe that the expression "admissible in evidence" is used. I want to impose upon my learned friend this thought: In an ordinary criminal case a defendant would have a right to introduce before the court that he had been advised by his counsel to pursue a certain course, and, though the advice may have been wrong and he may really have violated the law, the court will take the suggestion, looking to the question of the defendant's intent, into consideration in inflicting penalty.

Now, I ask the learned Senator, under the provision that the order or finding of the court or commission should not be admissible in evidence, would not the defendant be greatly embarrassed in the following circumstances: Suppose there should be a proceeding before the commission and it should be held as a result of that proceeding that the man was not guilty of unfair competition, and yet a criminal proceeding should subsequently be had under which he should be found guilty of a violation of the Sherman Antitrust Act. Ought not that man to have the right to have introduced in that case in some form that finding of the commission in order that the judge might consider that finding in inflicting penalty looking to the man's intent? I fear under this section that, even though the commission had found there was no unfair competition, the defendant, when the judge came to inflict a penalty, would have no right to have the order introduced and thus have his offense mitigated in proportion because of the previous order that exculpated him, though it was not a defense as to the charge of violation of the Sherman Antitrust Act. Would the Senator consent to have the amendment amended so as to read, after the words "antitrust acts," "but may be considered by any judge or court in inflicting or prescribing punishment for any violation of the antitrust laws"?

Mr. CUMMINS. Mr. President, I would be reluctant to see the words which the Senator from Illinois has just proposed attached to the amendment for this reason: If a defendant is convicted of a crime under the antitrust act and his counsel is addressing the court with a view to mitigating or reducing the penalty or punishment, the considerations which he offers the court upon such an occasion are not evidence in the case. The evidence must be introduced before the case is submitted to the jury, and the jury must have an opportunity to consider and weigh all the evidence in the case.

I can well understand that after a conviction the intent or general conduct or the general standing of the defendant may be taken into consideration by the court in determining the extent of the penalty which shall be imposed, whether it be fine or imprisonment; but all those things can be done without any authority in the statute. Such action can be taken simply because that is a part of the established procedure of all courts; and I hope that the amendment will not be so changed as that the prior order of a court under section 5 could be offered in evidence. I think the Senator from Illinois will distinguish the difference between evidence offered in the case and considerations that are proposed to the court in determining what penalty shall be imposed.

Mr. LEWIS. Then the Senator from Iowa, as I understand him, does not fear that this expression would be an indication to the court that an order or finding of the commission is not to be received into the cause for any purpose whatever?

Mr. CUMMINS. I am not prepared to say whether it would be or could be received for any purpose; but I am very sure that the words which I now propose as an amendment would not preclude making the suggestion to the court after the verdict.

Mr. LEWIS. Now, may I ask the able Senator in what way would you get before the court the fact that there had been an order made by the commission that on its face indicated that the people against whom the proceeding was being had were not guilty of unfair competition, therefore indicating a lack of criminal intent, to be considered in mitigation of their offense, if it has been prescribed that such order shall not be introduced in the case?

Mr. CUMMINS. If it is proper to be brought to the attention of the court at all, it would be brought in any way that counsel might desire, just as a long life of probity, established by the word of neighbors——

Mr. LEWIS. May I say to the Senator that that would have to be introduced in evidence under general character and good behavior?

Mr. CUMMINS. No; all these things can be used, as I have seen them used, and I am sure the Senator has seen them used, when the counsel are urging a light penalty or light imprisonment.

Mr. WHITE. Mr. President, will the Senator from Iowa allow me to make a suggestion?

Mr. CUMMINS. I yield to the Senator from Alabama.

Mr. WHITE. Does not the situation hypothesized by the Senator from Illinois occur after the suit has ended, and is there any suit pending at that time; and does not this amendment contemplate that the evidence shall be evidence offered

during the pendency of the suit? In other words, would there be any suit pending under the situation hypothesized by the Senator from Illinois that would exclude the consideration of anything that might be considered by the court in mitigation of punishment?

As a matter of fact, as I understand, the suit has then ended, and matters of any character are brought to the consideration of the court. Facts might be introduced showing the situation of the defendant, the character and number of his family, or, as the Senator from Iowa has suggested, a long life of good behavior, and the fact that it is the first offense. Therefore it is not technically evidence offered in the case, while this amendment contemplates evidence offered during the pendency of the proceeding.

Mr. LEWIS. Permit me to say to the able Senator, if I may, Mr. President, that I can not accept the idea advanced by the able Senator from Alabama. I can not accept the idea that a suit no longer pends merely because the evidence has been closed and judgment has not been pronounced. My judgment is that the suit is still pending until a final appeal and affirmance or reversal.

I again state my position, and if the able Senators think my fear is unfounded I prefer to yield to their excellent judgment. I express the feeling that they are with me on the justice of my position; and if it is not debarred by the expressions in the amendment, then I have no desire to embarrass the amendment by the addition of words.

This is my fear: If there were nothing whatever said, if there had been no such amendment as proposed by the Senator from Iowa, I contend that the position of the Senator from Alabama would be absolutely correct; that you could introduce before the court all of the matters which ordinarily would be presented to a court under similar conditions; but that after we have put in an amendment which states that no order of finding shall be admissible as evidence in any suit the court might construe that our object was not to have that order considered for any purpose whatever in that other proceeding.

Now, unless it serves as a barrier in that respect my position is wrong. If it does serve as a barrier, I should like to have it so amended that the man would get the benefit of this honest mistake, if he has made one.

Mr. NELSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Minnesota?

Mr. CUMMINS. I yield to the Senator.

Mr. NELSON. I am not aware of any procedure by which testimony is taken in a formal way by the court upon the question as to the degree of sentence that is to be pronounced on a defendant. Whatever transpires comes in response to that inquiry under the common law; and that is, when the defendant is called up for sentence he is asked by the court what he has to say why sentence should not be pronounced upon him under the law. In response to that inquiry he himself, or through his attorney, can state any facts that he regards as material to reduce the sentence or to invoke the clemency of the court.

There is nothing in this amendment which would debar the defendant's attorney, or the defendant himself, from calling attention to that fact, like any other fact; but those facts are brought before the court in that informal manner, and not as a matter of testimony in the case.

Mr. LEWIS. I recognize that distinction, which is urged, and urged with clearness, by both Senators. I again express my fear, however, that having specifically legislated that the order shall not be received in the case, a court might conclude that the policy of our legislation was that it was not to be considered for any purpose in the case. Now, if I am wrong in that my amendment is unnecessary. If I am right in that, something ought to be done in order to give the man a chance to plead that order in mitigation of the penalty, should he be convicted of a violation of the Sherman Antitrust Act after there was an order that acquitted him of unfair competition.

Mr. CUMMINS. I feel sure the fears of the Senator from Illinois are unfounded. This prohibition is against the admissibility of these orders or findings in evidence. They are not to be admissible as evidence. I think the showing which the Senator from Minnesota has described so well and so completely, which is made in order to induce the favor of the court in imposing sentence, has never in the history of judicial procedure been termed evidence.

Mr. THOMAS. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Colorado?

Mr. CUMMINS. I do.

Mr. THOMAS. As I understand the position of the Senator from Iowa, it is that inasmuch as the pending bill is designed to provide against unfair methods of competition it is distinct and different from the measures which we call the antitrust measures, and as a consequence the proviso is not only desirable, but expedient, since otherwise the proceedings under this act might prevent the enforcement of the provisions of the other act or acts, or at least modify or influence their attempted enforcement and application. I would suggest, if that is so, that it ought to be accompanied by a corresponding inhibition as to proceedings under those laws with reference to proceedings under this one, so that the amendment would read:

*Provided*, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts; nor shall any order or finding of the courts in the enforcement of the antitrust acts be admissible as evidence in any proceeding or in any suit, civil or criminal, brought under the provisions hereof.

In other words, if we are going to introduce this proviso, should it not be made mutual, so that no proceedings under the other acts can be introduced as evidence or permitted to influence proceedings here, while on the other hand none of these proceedings shall be permitted to influence or be introduced in evidence either for or against the parties in proceedings under the antitrust acts?

Mr. CUMMINS. I think the observation of the Senator from Colorado is sound. It had not occurred to me before, but it is perfectly obvious that the prohibition ought to be mutual. If the Senator will prepare such an addition, I for one shall be glad to see it added to the section. I only suggest, however, that the language should not imply that there was any criminal prosecution to be brought under section 5, inasmuch as the enforcement of that section is through civil process alone.

Mr. THOMAS. My judgment does not approve of the proposed amendment; but it seems to me that if its office is as stated by the Senator from Iowa—and I have no doubt it is—then there should be some such addition to it as would make it mutual. Personally I very much doubt the wisdom of adopting the amendment. I shall have something to say upon that subject later.

Mr. SUTHERLAND. Mr. President, I do not doubt that this proviso, if adopted, would not prevent the consideration by the Judge, when he came to pronounce sentence, of any proceedings under section 5 of the socalled "trade-commission bill." I do not think a provision that such finding or order should not be admissible in evidence would prevent the judge, when it came to sentence, from considering it. He may consider anything he pleases in mitigation of punishment, and he may consider matters that are not admissible in evidence at all; anything that appeals to his discretion upon the matter of punishment.

The objection that occurs to me, however, is a deeper one than that. I assume that the same acts may conceivably be a violation of the unfair-competition statute and also a violation of the antitrust act. If so, upon what theory of justice should a defendant who has been acquitted of a series of acts charged as unfair competition be denied the right to set up that judgment of a court in another proceeding involving the same acts, though called by a different name?

Mr. CRAWFORD. Mr. President, will the Senator permit me there?

Mr. SUTHERLAND. Yes.

Mr. CRAWFORD. What would the Senator say if the order made by the commission were adverse to the defendant? For instance, suppose the commission had investigated half a dozen different charges against the defendant under this statute, and had found that the competition was unfair competition, or the methods of competition were unfair, and then afterwards another action was commenced against the same defendant for violating the antitrust act, for being guilty of restraint of trade. Would the Senator say that in the absence of this amendment these successive orders and findings of the court showing that the same defendant had been guilty of these different unfair methods of competition as sequences included in the general complaint of restraint of trade might not be competent testimony, not for the purpose of proving res adjudicata, but for the purpose of being considered as evidential matters establishing the general charge of pursuing a business in restraint of trade?

Mr. SUTHERLAND. So far as the findings of the commission are concerned, I think they ought not to be considered as evidence.

Mr. CRAWFORD. I refer more particularly to the findings of the court.

Mr. SUTHERLAND. I am taking up the propositions of the Senator seriatim. I am first dealing with the question of the commission. So far as the findings of the commission are concerned, I do not think they ought to be evidence anywhere.

Mr. CRAWFORD. I do not, either.

Mr. SUTHERLAND. I doubt very much whether we could make them evidence. I hope to discuss that question in another connection, later along, before we get through with this bill. So far as the decision of the court is concerned, however, I see no reason in the world why that decision should not be admissible as an estoppel in another proceeding involving the same facts, though called by a different name.

Mr. CRAWFORD. Mr. President——

Mr. SUTHERLAND. If the Senator will pardon me a moment while I follow out the thought which I have in mind—it is the general policy of our law, of the common law, that there shall be an end of litigation; that parties shall not be compelled to respond to the same charges in court more than once. In civil cases that finds its expression in the maxim—I am not attempting to quote it literally—that no person shall be twice vexed with the same litigation. It finds its expression in the criminal law in the rule that no person shall be twice put in jeopardy of life or limb for the same offense.

The question to which the law addresses itself when that matter arises is whether, in substance, the person is being twice vexed with the same case, or, in substance, whether the defendant has been twice put in jeopardy of life or limb. The form of the action is immaterial. The same set of facts may constitute a violation of more than one penal statute. It may be in one aspect that the same facts may constitute one offense and in another aspect a different offense, but if the defendant be prosecuted for either one of those offenses and be acquitted he can not afterwards be prosecuted for the other offense, although you may call it by a different name if it involves exactly the same facts.

Mr. LEWIS. Mr. President, the able Senator from Utah does not mean different jurisdictions?

Mr. SUTHERLAND. Oh, no; I am not speaking of different jurisdictions. This is the same jurisdiction. Of course a series of acts may constitute an offense against the Federal Government and against the State government, and both may prosecute.

Mr. LEWIS. That interests me. That is the thing that has been troubling me. May I say to the Senator from Utah and the Senator from Iowa that I have not expressed myself at all satisfactorily this morning, as I do not think I have at all expressed with clearness the fear that I had in my mind? When it comes to penalty, may I invite the attention of both Senators to an illustration, both having had very extensive practice of the law?

A man is charged with violating the law or municipal ordinance against carrying concealed weapons. My very able friend from Connecticut, having had some experience in municipal legal matters, I am sure will recall the instance to which I shall now invite the Senators' attention. We will say that a defendant is found guilty or not guilty, as the case may be, by the municipal court. He is proceeded against by the State upon an indictment in a different jurisdiction of the same State. In what way can the judgment of the municipality in which the man was acquitted or in which he may have been found guilty and fined be brought to the attention of the State tribunal as a mitigation of the penalty without the judgment being brought to the attention of the court in some form?

The mere statement of counsel, if he is an honorable gentleman, of course, would be accepted; but fancy how many illustrations can arise to our minds where a false statement can be made or where the court will say: "I can not consider that mattter on your statement, however much I trust you, as I have not the exact facts before me in order to see that these exact facts were before the court at that particular time."

That is the thing that is in my mind.

Mr. SUTHERLAND. I was not particularly concerned in that phase of this discussion. I think, however, that there would be not the slightest difficulty in it. When a defendant has been convicted by a jury and finally called for sentence counsel may stand up and present the record. It is not a formal matter. What the judge does upon an application for a mitigation of punishment is not a judicial proceeding in the sense that nothing can be admitted that the laws of evidence do not recognize as admissible. The judge can consider anything he pleases.

Mr. LEWIS. While the Senator could have considered it under ordinary circumstances, which we all concede, the Senator does not think that the words of the amendment, "shall not be received," and so forth, would be an intimation to the court that it was not to be considered for any purpose whatever?

Mr. SUTHERLAND. I think not.

Mr. LEWIS. That is the only fear, and I would rather yield to the judgment of the committee than trust my own.

Mr. SUTHERLAND. Now, we come back to the question which I was discussing. It makes no difference what name we give to a series of acts, the question in the one case, in the civil case, is whether the defendant is being twice vexed with prosecution for the same series of acts. The same set of acts may, as I have said, conceivably constitute a violation of the unfair-competition statute, and upon a final hearing in a court of justice the court may find and solemnly adjudge that the defendant has committed that series of acts which will constitute unfair competition. Later along a prosecution is instituted under the antitrust act, based perhaps entirely upon the same acts which were alleged in the prior action as constituting unfair competition. By what rule of law, by what rule of justice, should the defendant be prevented from pleading that in another proceeding, although called by another name, under another statute, the court had held that he was not guilty of committing the acts which are charged in both proceedings? That is the point that I have in mind.

Mr. CUMMINS. Mr. President, I should like to put to the Senator from Utah this question: Suppose A sues B for trespass upon property. B defaults and there is a judgment in favor of A. Among the allegations of the petition there is, we will assume, a charge that B was present upon the property of A. Thereafter A sues B for damages for an assault committed at the same time. Would the Senator from Utah claim that the judgment in the suit for trespass should be a bar or conclusive in favor of the plaintiff in the suit for assault?

Mr. SUTHERLAND. No; because the two cases would involve different facts; but if the presence of the defendant at a given time and place was necessary to the maintenance of the act of the trespass, and the court had found that he was not present, I would imagine that judgment might be pleaded upon that precise issue whenever presented in another case. But that is not——

Mr. CUMMINS. I am not disagreeing with the Senator from Utah regarding that; but the verdict must be guilty or not guilty, and suppose the very issue that the Senator from Utah has stated, namely, the presence of the defendant upon the property of the plaintiff, there is no finding except a verdict of not guilty.

Mr. SUTHERLAND. The Senator is now supposing two criminal cases.

Mr. CUMMINS. No; I am supposing two civil cases. There is no criminal procedure under section 5. I have in mind here particularly a civil procedure under the antitrust act, and my illustration was a civil case for trespass, with a verdict of not guilty, and then a civil case for assault. We will assume, now, that in the former case there was contested the question as to whether the defendant was personally upon the property of the plaintiff. Does the Senator from Utah think that the judgment of not guilty in the former case could be pleaded in estoppel or as a bar to the suit for assault?

Mr. SUTHERLAND. I do not think so. I think there would be two entirely different cases depending upon two entirely different sets of facts. One would be a trespass upon property and the other would be a personal assault.

Mr. CUMMINS. While it is quite possible that the same fact will be investigated in both cases, yet it is not the existence of that fact which is the judgment of the court, but it is the effect of that fact in view of all the surrounding circumstances upon the law. Its effect might be very different in inquiring into a restraint of trade and inquiring into unfair competition.

Mr. SUTHERLAND. Mr. President, of course all I want is that the law shall be left as it is. If the second case which is presented, namely, the prosecution under the antitrust act, does not present an appropriate case for pleading the estoppel in a former case, then, of course, it would not be received. If it does, I want the law left as it is; that is all. In other words, if under existing law, in the absence of this proviso, a set of facts arise wherein in the second prosecution under the antitrust act the defendant may plead the action of the court in a prosecution and under the unfair competition statute, I want that left as it is. I do not want to limit the rights of the defendant in that particular, and I think there is danger of doing it by this amendment.

Mr. CUMMINS. I assume the Senator from Utah is just as solicitous for the rights of the Government as he is for the defendant.

Mr. SUTHERLAND. Certainly.

Mr. CUMMINS. He has used several times the word "defendant." I assume we all want to protect the fair, proper rights of both complainant and defendant. If the charge in a

suit under this section is conclusive in favor of the defendant, it must also be conclusive in favor of the Government.

Mr. SUTHERLAND. Certainly; estoppels must be mutual. There is no doubt about that.

Mr. CUMMINS. An alleged offender is brought, through the commission, before the court with regard to unfair competition. The consequences may not be very grave, and the person so charged is therefore not very particular with regard to the evidence that he introduces in opposition to the charge. Thereupon an order of the commission is presented that the person or corporation must desist from the unfair practice, and it goes on and on and finally reaches a magnitude or seriousness that constitutes an offense under the antitrust law, and a suit is brought under that law. Does the Senator from Utah think that in such a case the Government ought to be able to bring forward the order of the commission or the order of the court, if one follows, in order to convict that person or corporation under the antitrust law or to prove conclusively that he or it had committed the acts charged and involved in the former procedure? It would seem to me very unfair inasmuch as the issue is different and the consequences are different, and therefore we ought to keep each separate.

Mr. SUTHERLAND. Mr. President, I think exactly what I have said. The Senator makes rather a long statement, and while, if written out so that I could analyze it, I might be able to answer it categorically, it is sometimes confusing when a question of that kind is put to a Senator on his feet to analyze it and answer it offhand. All I mean to say is that cases may arise where exactly the same facts and the same acts of commission will constitute a violation of the unfair-competition statute, and those same acts, neither more nor less, may conceivably constitute a violation of the antitrust statute. If the court in a prosecution for unfair competition has investigated all the acts and has rendered a judgment specific in terms, saying that the defendant has committed none of those acts, upon what theory should the defendant be prevented from pleading that judgment in another case, called by a different name but based upon precisely the same acts, or, conversely, the Government doing the same thing?

Mr. KENYON and Mr. WHITE addressed the Chair.

The VICE PRESIDENT. Does the Senator from Utah yield; and, if so, to whom?

Mr. SUTHERLAND. I will yield first to the Senator from Iowa and then I will yield to Senator from Alabama.

Mr. KENYON. Would the court under this act be authorized to render any such judgment or order as the Senator has suggested? If there are no acts of unfair competition—I am in the dark about this language and I am asking for information—is it not the provision of this amendment that the finding of the court or commission is the order that is issued in the enforcement of this section? Now, what is that order? The court can issue an injunction to enforce an order of the commission. The only order the commission can issue is one restraining and prohibiting the use of unfair methods of competition.

The only process of the court would be the injunction to enforce that order.

Mr. SUTHERLAND. I think there is great force in what the Senator says, but, in the first place, I can not conceive of an order being issued simply commanding a corporation to desist from unfair methods of competition, saying nothing more. The defendant could not know what he was ordered to desist from. The order, I assume, of necessity must specify the thing which he must desist from.

Mr. KENYON. Suppose the court should find there was no offense, no unfair competition; that is the end of the matter. Then there is no order.

Mr. SUTHERLAND. If the commission simply finds there has been unfair competition and issues a general order saying the defendant shall desist from unfair competition, such an order would obviously be a nullity.

Mr. KENYON. I do not claim to know. I am simply trying to get information. The court would issue the order specifying the acts of unfair competition, if the court found there was unfair competition; but suppose the court finds there is no unfair competition, it makes no order at all.

Mr. SUTHERLAND. I, of course, assume that before we get through with this bill, in view of the amendments which are pending, there will be some provision put in which will give the court power to try the charge of unfair competition; and if the court is given the power to try it and decide it, I can not conceive of its being presented to the court in any other way than by some form of pleading which will state the facts as distinguished from the mere legal conclusion. So in some way or other finally, if this is to be effective, the facts must be stated to the court and the court must be called upon to pass upon the facts.

Mr. CUMMINS. I wish to suggest to the Senator——

Mr. SUTHERLAND. I promised to yield to the Senator from Alabama [Mr. WHITE].

Mr. WHITE. From illustrations used by the Senator from Utah in discussing this amendment I assume that he is opposing the amendment on the ground that it is not in accord with sound public policy.

Mr. SUTHERLAND. Yes.

Mr. WHITE. The illustrations cited by the Senator are apt in showing that in criminal cases the pleas of autrefois acquit and autrefois convict and former jeopardy are complete answers on a second trial, when the facts which were admissible on the first trial would be admissible on the second, and that the pleas of res judicata would be a complete answer on a second trial of a civil suit, where the evidence offered in support of the action in the first trial would be admissible to support the action on the second. I quite agree with the Senator that these propositions are in accord with the general principles of the Anglo-Saxon law, but they are not universal.

Mr. SUTHERLAND. It has been the universal policy in criminal cases.

Mr. WHITE. Except in cases where the same act is punishable under different authorities, such as acts punishable both by the State and National Governments.

Mr. SUTHERLAND. Yes.

Mr. WHITE. There are notable exceptions to the rule, as stated by the Senator, one of them being the action of ejectment at common law. There are other exceptions under modern statutes and practice, namely, in ad quod dammum proceedings, in which commissioners have been appointed to assess the value of the property sought to be condemned, from which an appeal has been taken to a tribunal where the case is to be retried. On this second trial the findings of the commission are not admissible in evidence and can in no way affect the last trial.

There are instances where the findings on the same facts on one trial are not admissible in evidence and are without weight in the second trial, namely, in civil suits to recover damages for assaults and batteries. The findings and judgments in such suits are not admissible in the trials of the parties when being prosecuted criminally for the same act. The same is true under many other similar circumstances. In such cases the findings in one case are not admissible in evidence in the other. A quite sufficient reason why the findings in the first trial above mentioned should not be used as evidence in the second is that the parties to the actions are different, but these cases will illustrate the idea that an offender against the law may be proceeded against twice for the same violation of the law.

One reason why the amendment should be adopted and the findings and orders of the commission or court not be admissible in proceedings instituted under the antitrust laws is that proceedings to be instituted under this act are largely preventive in their purposes and objects. The proceedings under the act as I understand it will be mainly to prevent unfair competition and not punish it after it has been practiced. The adoption of the amendment will have beneficial effect on the proceedings under this act in that it will tend to widen the scope of the investigation, the commission and court understanding at the time that the finding and orders are not to be used to conclude parties to proceedings in any future trials or produce a consequence other than to induce the finding or order to be made when the facts are under consideration.

Mr. SUTHERLAND. Mr. President, I am obliged to the Senator from Alabama for his statement of the rules with reference to estoppel and the exceptions, with which in a general way I was already familiar. Of course, there are exceptions to the rule. The exception with reference to actions of ejectment is one well recognized. The other exceptions the Senator calls attention to are well known. They only serve to emphasize the general rule, however, that as a general thing a person ought not to be twice vexed with the same litigation. That is the general rule, and, as in most cases, these occasional exceptions simply serve to emphasize the wisdom and the justice of the general rule.

This does not come within any of those exceptions so far as the findings of the commission are concerned. I have already said I do not think they ought to be considered anywhere as evidence.

Mr. President, I have substantially completed all that I desire to say, but let me give this illustration: Suppose that we were dealing entirely with criminal proceedings. Suppose that this statute with reference to unfair competition should provide that

unfair competition is hereby declared to be unlawful, that any person violating the provision shall be subject to fine and imprisonment, and under that an individual were prosecuted charged with unfair competition. An indictment would state the facts. It would be obliged to state the general or ultimate facts. It would not be sufficient to say "unfair competition." Suppose upon that indictment the trial was had and the defendant were acquitted, and subsequently that same defendant should be indicted under the antitrust act for doing precisely the same thing and it is alleged to be not a violation of the unfair competition statute but a violation of the antitrust act. Can there be any doubt in that case the constitutional provision would apply, that the defendant could not be twice put in jeopardy of life or limb for the same offense, and that that could be successfully pleaded? If that could be done in the case I have illustrated, then it seems to me that it is unwise policy to pass a law which will prevent a defendant from doing it in two civil cases, called by different names, between the same parties, the United States as complainant and a corporation as defendant, each case called by different names, but involving precisely the same facts. I think it is unwise policy, to say the least about it. It is unjust, to say the least about it, to prevent the defendant in the second case from pleading that he has been adjudged by the court in the first case not to have committed the acts which are charged in the second case.

Mr. BRANDEGEE. Mr. President, this commission is not a court, as I understand it. While the Senator from Utah and I agree that section 5 is probably utterly void, because it is an ineffectual attempt to confer judicial power upon an administrative commission, still the order that the commission may make is not a judgment of a court. Still the Senator from Colorado [Mr. THOMAS] argued that the commission would have a right to find that the person who was charged with an unfair method of competition was not guilty of an unfair method of competition, even if it be but the opinion which Congress itself has said should be rendered by this Government commission for the guidance of the business man. If that commission, fit to decide the question, can find that the man who was haled before it was not guilty of unfair competition or an unfair method, it seems to me that the innocent party is certainly entitled to have that finding or that opinion operate to his advantage wherever he is charged with anything which savors of the nature of what he was charged with before the commission.

The Senator from Iowa [Mr. CUMMINS], if I understand him correctly, says that it would manifestly be unfair to have the finding of this commission introduced in evidence in a suit brought by the Department of Justice and in a Federal court under the act of July 2, 1890, the Sherman antitrust law, because the commission is not authorized by section 5 of this bill to determine what is a restraint of trade, which would be the question if the Department of Justice were acting under the Sherman Antitrust Act to dismember a corporation for engaging in a restraint of trade. But the trouble about it is—and this is the answer to the Senator from Iowa—that many things that this commission may find to be unfair methods of competition, if section 5 could stand and be valid in the law, quite likely would also be restraint of trade.

I do not need to enter upon an enumeration of the thousands of different devices and processes in the multitudinous efforts of the great number of competitors for all kinds of business in this country, the thousands of different methods of competition which they use, and I do not need to anticipate, because it would be trying to catch a flea on a sand beach to attempt to anticipate, the number of different methods of competition which the business competitors of this country will be driven to, to take the places of those which this commission may pronounce to be unfair. Mr. President, it will be as protean and as varied as the invention of the burglar to beat the safe. There is no limit to the devices which the ingenuity of competitors will resort to as they are forbidden to indulge those which they are practicing. So it is useless to attempt to enumerate the different things which some people think or would judge to be unfair methods in competition. They are as varied as the ethical conceptions of the consciences of men.

Everybody who is a lawyer knows he never had a client who would admit, when he was contesting most vigorously with the client of another lawyer, that he wanted anything except what was just and reasonable and fair, and yet they were at swords' points, and would spend their entire fortunes to maintain their position and their opinion about what was just and reasonable and fair.

This commission, not yet chosen, are to decide, if such a proposition can be upheld under American law, whether a given practice presented to them is fair or unfair. Suppose the method of competition which is in question before the commission is selling in one part of the country at a price less than is charged in another, or is any other of the specific acts which have been mentioned by the courts in the decision of cases brought to them under the Sherman antitrust law, which if pursued far enough and as applied to a particular case might amount to a restraint of trade under the Sherman antitrust law. If that is the unfair method of competition complained of before this commission, and the commission, if it has authority to do so under this act—that authority is not specially conferred, but the Senator from Colorado [Mr. THOMAS] thinks it is inherent in any tribunal which has authority to decide anything—decides that, in its opinion, the method complained of is not unfair; and supposing the next week the Attorney General brings a proceeding in the Federal court alleging that the very method of competition which the commission has just decided to be perfectly fair is in restraint of trade and commerce among the States—if this amendment should be adopted, in my opinion, the defendant could not introduce as evidence either as a defense or in mitigation or for any other purpose the opinion of the very tribunal that we are now proposing to set up to determine what is an unfair method of competition.

Mr. WEST. Mr. President——

The VICE PRESIDENT. Does the Senator from Connecticut yield to the Senator from Georgia?

Mr. BRANDEGEE. I do.

Mr. WEST. Does the Senator from Connecticut mean to say that under this bill the opinion of the trade commission could not even be used in mitigation of the offense?

Mr. BRANDEGEE. I think that is true. What the amendment provides is this:

*Provided*, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

What can be the object sought in preventing an innocent man from having the benefit of the opinion of this commission, if it may render one. I do not see; neither, if the judgment of this commission or its opinion is worth anything, do I see, if suit is brought by the Attorney General under the Sherman antitrust law charging as a violation of that law the same act that was before the commission charged with being an unfair method of competition, why the Government should not be allowed to introduce the order of the commission directing the man to stop the practice or the injunction of the court at the request of the commission, as provided in section 5. There may be some reason for it that I do not apprehend. I regard it as unwise and uncalled for, and I think that it would be a great and unfair burden to be placed upon the business men who have to be summoned before this commission in addition to other burdens proposed by this bill to be placed upon them.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Nevada [Mr. NEWLANDS].

Mr. BRANDEGEE. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

| | | | |
|---|---|---|---|
| Ashurst | Gallinger | O'Gorman | Sterling |
| Bankhead | Hollis | Overman | Stone |
| Borah | Hughes | Page | Sutherland |
| Brandegee | Kenyon | Perkins | Swanson |
| Bryan | Kern | Reed | Thomas |
| Camden | Lane | Saulsbury | Thornton |
| Catron | Lea, Tenn. | Shafroth | Tillman |
| Chamberlain | Lee, Md. | Sheppard | Vardaman |
| Chilton | Lewis | Shields | Walsh |
| Clapp | Martin, Va. | Simmons | West |
| Clarke, Ark. | Martine, N. J. | Smith, Ariz. | White |
| Crawford | Nelson | Smith, Ga. | Williams |
| Culberson | Newlands | Smith, Md. | |
| Cummins | Norris | Smoot | |

The VICE PRESIDENT. Fifty-four Senators have answered to the roll call. There is a quorum present. The question is on the amendment proposed by the Senator from Nevada [Mr. NEWLANDS].

Mr. BRANDEGEE. Mr. President, I propose now to read the trade commission bill and the Clayton bill, in order that some opportunity may be given to the country to see what the bills are. Those bills, having been reported to the Senate, Senators offer various amendments to them, the discussion proceeds upon the amendment, and no one has any idea of what the provision is which it is proposed to amend or what the effect of the amendment will be. The pending bill, which is Calendar No. 518, House bill 15613, entitled "An act to create an interstate trade commission, to define its powers and duties, and for other purposes, reads as follows:

That a commission is hereby created and established, to be known as the Federal trade commission, composed of five members, not more than three of whom shall be members of the same political party, and

the said Federal trade commission is referred to hereinafter as "the commission."

The words defined in this section shall have the following meaning when found in this act, to wit——

Mr. CUMMINS. Mr. President, I ask for order, so that we may hear the Senator from Connecticut. Some of us are not familiar with the bill and we want to hear what is in it.

The VICE PRESIDENT rapped with his gavel.

Mr. BRANDEGEE (continuing)—

"Commerce" means such commerce as Congress has the power to regulate under the Constitution.

The term "corporation" or "corporations" shall include joint-stock associations and all other associations having shares of capital or capital stock, organized to carry on business for profit.

"Antitrust acts" means the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890; also sections 73 to 77, inclusive, of an act entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August 27, 1894; and also the act entitled "An act to amend sections 73 and 76 of the act of August 27, 1894, entitled 'An act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February 12, 1913.

Mr. SUTHERLAND. Will the Senator yield to me?

Mr. BRANDEGEE. Mr. President, I will request that I be not interrupted during the reading of the bill, because my object is to inform the public as to what the bill is.

Mr. SUTHERLAND. I merely wanted to make a suggestion in regard to the reading.

Mr. BRANDEGEE. I resume:

SEC. 2. Upon the organization of the commission the Bureau of Corporations and the offices of Commissioner and Deputy Commissioner of Corporations shall cease to exist, and the employees of said bureau shall become employees of the commission in such capacity as it may designate.

Mr. SWANSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Connecticut yield to the Senator from Virginia?

Mr. BRANDEGEE. I have requested not to be interrupted.

Mr. SWANSON. I hope the Senator will speak louder. It is impossible to hear him over here.

Mr. BRANDEGEE. I know how anxious the Senator is to learn the terms of the bill which is now being read for the first time, and I will endeavor to speak loud enough so that any Senator who wants to hear me may do so, provided those who are sitting around him will let the Senator who has the floor do the talking. The bill continues:

The commission shall take over all the records, furniture, and equipment of said bureau. All work and proceedings pending before the bureau may be continued by the commission free from the direction or control of the Secretary of Commerce. All appropriations heretofore made for the support and maintenance of the bureau and its work are hereby authorized to be expended by the commission for said purposes.

Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the commission shall not impair the right of the remaining commissioners to exercise all the powers of the commission.

The commissioners shall be appointed by the President, by and with the advice and consent of the Senate. The terms of office of the commissioners shall be seven years each. The terms of those first appointed by the President shall date from the taking effect of this act, and shall be as follows:

Mr. MARTINE of New Jersey. Mr. President, we are utterly unable to hear the Senator from Connecticut. I know he is discussing a matter of great importance, and I trust the Senator will raise his voice so that Senators on this side of the Chamber may hear him.

Mr. BRANDEGEE. As I have said before, if the Senators who are sitting in the neighborhood of the Senator from New Jersey would allow me to do the talking, I think the Senator would have no trouble in hearing; or, if under those circumstances he can not hear, there are plenty of vacant seats on this side any one of which the Senator could occupy and no doubt hear my remarks:

One shall be appointed for a term of three years, one for a term of four years, one for a term of five years, one for a term of six years, and one for a term of seven years; and after said commissioners shall have been so first appointed all appointments, except to fill vacancies, shall be for terms of seven years each. The commission shall elect one of its members chairman for such period as it may determine.

Mr. O'GORMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from Connecticut yield to the Senator from New York?

Mr. O'GORMAN. A parliamentary inquiry: Is the Senate in session?

Mr. BRANDEGEE (continuing):

The commission shall elect a secretary and may elect an assistant secretary.

Mr. O'GORMAN. I have addressed an inquiry to the Vice President.

The VICE PRESIDENT. The Chair thinks the Senate is in session.

Mr. O'GORMAN. With all due respect to the Senator from Connecticut, who seems to have the floor, it must be apparent that he is engaged in a monologue, for he is talking in such an inaudible tone that he can not be heard by a Senator 10 feet from him. This is unusual, because the Senator from Connecticut has a strong, resonant, carrying voice when he desires to be heard.

Mr. BRANDEGEE. I decline to yield. If the Senator has a point of order to state, I am willing, of course, that he state it; but I do not yield to the Senator for any other purpose.

The VICE PRESIDENT. The Senator from Connecticut has the floor.

Mr. BRANDEGEE. I resume reading the bill:

Said secretary and assistant secretary shall hold their offices or connection with the commission at the pleasure of the commission——

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from Connecticut yield to the Senator from Montana?

Mr. WALSH. I rise to a parliamentary inquiry. Is a Senator entitled to take the floor and occupy it who speaks in such a manner that it is impossible for anybody to hear him at any reasonable distance away?

Mr. STONE. I make the point of order, with all due respect to my friend, that a Senator occupying the floor can not be taken off the floor by a point of order or by a parliamentary inquiry.

The VICE PRESIDENT. The Chair will say that a Senator can not be taken off the floor by a parliamentary inquiry, but he certainly can be taken off by a point of order, if the point of order is sustained by the Chair.

Mr. STONE. Upon that, Mr. President, at the proper time—I do not care to interfere at this moment—I should like to submit some rulings of former occupants of the chair, predecessors of the present occupant, and also rulings of the Senate itself upon that very question.

Mr. BRANDEGEE. Mr. President, I will say that I think there will be no trouble in hearing me. If Senators desire to hear me, they will have no difficulty on account of the tone of my voice; but inasmuch as my remarks may perhaps be somewhat extended, I do not propose to try to make more noise single-handed than all the rest of the Senators can make in coordination. I shall conduct myself in a perfectly parliamentary manner; the Senate need not worry about that.

Mr. O'GORMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from Connecticut yield to the Senator from New York?

Mr. BRANDEGEE. I do for a question.

Mr. O'GORMAN. May I ask the Senator from what he is reading?

Mr. BRANDEGEE. I do not wonder the Senator is surprised. This is the first information he has probably had of what is in the bill that is under consideration. I am reading from the Federal trade commission bill.

Each commissioner shall receive a salary of $10,000 per annum——

Mr. O'GORMAN. May I ask the Senator if he thinks he is reading the bill for his own benefit or for the benefit of his colleagues?

Mr. BRANDEGEE. For the benefit of all, including the country.

Mr. O'GORMAN. But the Senator's colleagues can not hear him unless he raises his voice.

Mr. BRANDEGEE. My colleagues can hear me if they want to.

Each commissioner shall receive a salary of $10,000 per annum. The secretary of the commission shall receive a salary of $5,000 per annum. The assistant secretary shall receive a salary of $4,000 per annum. In case of a vacancy in the office of any commissioner during his term, an appointment shall be made by the President, by and with the advice and consent of the Senate, to fill such vacancy, for the unexpired term. The office of the commission shall be in the city of Washington, but the——

Mr. CLARK of Wyoming. Mr. President, I ask for order in the Senate.

The VICE PRESIDENT rapped with his gavel.

Mr. BRANDEGEE (continuing):

commission may at its pleasure meet and exercise all its powers at any other place and may authorize one or more of its members to prosecute any investigation, and for the purposes thereof to exercise the powers herein given the commission.

The commission shall have such attorneys, accountants, experts, examiners, special agents, and other employees as may from time to time be appropriated for by Congress, and shall have authority to audit their bills and fix their compensation. With the exception of the secretary and assistant secretary and one clerk to each of the commissioners, and such attorneys and experts as may be employed, all employees of the commission shall be a part of the classified civil service. The commission shall also have the power to adopt a seal, which shall be judicially noticed, and to rent suitable rooms for the conduct of its work.

All the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders in making any investigation or upon official business in any other place than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor, approved by the commission.

The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the commission.

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

SEC. 3. The commission shal have power among others—

(a) To investigate from time to time, and as often as the commission may deem advisable, the organization, business, financial condition, conduct, practices, and management of any corporation engaged in commerce, and its relation to other corporations and to individuals, associations, and partnerships.

(b) To require any corporation subject to the provisions of this act which the commission may designate to furnish to the commission from time to time information, statements, and records concerning its organization, business, financial condition, conduct, practices, management, and relation to other corporations, or to individuals, associations, or partnerships, and to require the production for examination of all books, documents, correspondence, contracts, memoranda, or other papers relating to or in any way affecting the commerce in which such corporation under inquiry is engaged or concerning its relations to any individual, association, or partnership, and to make copies of the same.

(c) To prescribe as near as may be a uniform system of annual reports from such corporations or classes of corporations subject to the provisions of this act as the commission may designate, and to fix the time for the filing of such reports, and to require such reports, or any special report, to be made under oath, or otherwise in the discretion of the commission.

(d) To make public, in the discretion of the commission, any information obtained by it in the exercise of the powers, authority, and duties conferred upon it by this act, except so far as may be necessary to protect trade processes, names of customers, and such other matters as the commission may deem not to be of public importance, and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation.

(e) In any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust acts if the court finds for the complainant it may, upon its own motion or the motion of any party to such suit, refer the matter of the form of the decree to be entered to the commission as a master in chancery; whereupon the commission shall proceed in that capacity upon such notice to the parties and upon such hearing as the court may prescribe, and shall as speedily as practicable make report with its findings to the court, which report and findings having been made and filed shall be subject to the judicial procedure established for the consideration and disposition of a master's report and findings in equity cases.

(f) Wherever a restraining order or an interlocutory or final decree has heretofore been entered or shall hereafter be entered against any defendant or defendants in any suit brought by the United States to prvent and restrain any violation of the antitrust acts, the commission shall have power, and it shall be its duty, upon the application of the Attorney General, to make investigation of the manner in which the order or decree has been or is being carried out, and as to whether the same has been or is being violated and what, if any, further order, decree, or relief is advisable. It shall transmit to the Attorney General a report embodying its findings as a result of any such investigation with such recommendations for further action as it may deem advisable and the report shall be made public in the discretion of the commission.

(g) If the commission believes from its inquiries and investigations, instituted upon its own initiative or at the suggestion of the President, the Attorney General, or either House of Congress that any corporation, individual, association, or partnership has violated any law of the United States regulating commerce, it shall report its findings and the evidence in relation thereto to the Attorney General with its recommendations.

For the purpose of prosecuting any investigation or proceeding authorized by this section the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documents or writings of any corporation being investigated or proceeded against.

(h) The commission is hereby directed to investigate, as expeditionsly as may be, trade conditions in foreign countries where associations, combinations, or practices of buyers, dealers, or traders may injuriously affect the export trade of the United States, and also to investigate whether American exporters have combined with each other or with foreign producers or dealers to control prices abroad, and to report to Congress thereon from time to time.

SEC. 4. The powers and jurisdiction herein conferred upon the commission shall extend over all trade associations, corporate combinations, and corporations as hereinbefore defined engaged in or affecting commerce, except banks and common carriers.

Mr. CATRON. Mr. President, as the Senator is reading this bill for the information of the Senate, I suggest the absence of a quorum.

Mr. STONE. Mr. President, I make the point of order that the demand for a call of the Senate for the purpose of establishing the presence of a quorum is not in order. We have just had a call for that purpose, which disclosed a quorum, since which time no business has been transacted; and my point is that until business has been transacted a call for a quorum is not in order. Mere debate, or the continuation of speech making, is not of itself business within the meaning of the rule.

If the Chair has any doubt about it, I have before me or at my hand the ruling of Vice President Fairbanks when the point which I am now making was made before him. He submitted it to the Senate, and the Senate sustained the point. Afterwards, during the same day and subsequent days, the same point that I am now making was made, and the Chair sustained it.

The VICE PRESIDENT. The Chair has taken occasion to look up the record with reference to this matter. It appears in the CONGRESSIONAL RECORD of May 29, 1908. There was the suggestion of the absence of a quorum, and Mr. Aldrich said:

Mr. President, I rise to a question of order. The suggestion of the Senator from Wisconsin is not in order. We have had 32 roll calls within a comparatively short time, all disclosing the presence of a quorum. Manifestly a quorum is in the building. If repeated suggestions of the want of a quorum can be made without intervening business, the whole business of the Senate is put in the hands of one man, who can insist upon continuous calls of the roll upon the question of a quorum. My question of order is that, without the intervention of business, a quorum having been disclosed by a vote or by a call of the roll, no further calls are in order until some business has intervened. I should be glad if the Vice President would submit that question of order to the Senate.

I call the attention of the Chair to a decision in a case which is on all fours with this, made on March 3, 1897, when this precise question was raised by the then Senator from New York, Mr. HILL, who sustained it by the same argument which I am now calling the attention of the Chair to; and the point made by the Senator from New York was sustained. It is found on page 2737 of volume 29, part 3, of the RECORD, second session Fifty-fourth Congress. The language was:

"Mr. HILL. My point is, that the presence of a quorum was determined by the last roll call, and that a Senator can not immediately thereafter suggest the absence of a quorum.

"The PRESIDING OFFICER. Does the Senator mean to embrace the feature that no business has intervened?

"Mr. HILL. Yes; that no business has intervened.

"The PRESIDING OFFICER. The Chair sustains the point of order."

Then, after the point of order was sustained—and the Chair will not read all of the RECORD—Mr. LA FOLLETTE said:

Mr. LA FOLLETTE. Mr. President, I just wish to suggest, in order that it may appear upon the RECORD, that debate has intervened since the last roll call.

Mr. ALDRICH. That is not business.

Mr. LA FOLLETTE. I just wish that to appear upon the RECORD.

Mr. ALDRICH. My suggestion was that debate was not business.

Mr. LA FOLLETTE. And I want to remind Senators here to-night, before this vote is taken that every precedent you establish to-night will be brought home to you hereafter.

Mr. GALLINGER. Mr. President, I simply desire to add to what has been said, that if the entire business of the Senate can be put in the hands of one man, that one man could destroy the Government; he could prevent appropriations being made to carry on the governmental machinery, and it is absurd to suppose that it was ever so intended.

I shall not read further from the RECORD; but the question whether debate was business was submitted to the Senate, and by a vote of 35 yeas to 5 nays the point of order was sustained. I find that among the Senators who believed that debate was not business were Senators BRANDEGEE of Connecticut, CLAPP of Minnesota, CLARK of Wyoming, DILLINGHAM of Vermont, DU PONT of Delaware, GALLINGER of New Hampshire, NELSON of Minnesota, SMOOT of Utah, STEPHENSON of Wisconsin, SUTHERLAND of Utah, and WARREN of Wyoming.

Mr. GALLINGER. Mr. President, just an observation. I have always been troubled about this rule that a quorum may be called at any time, and I have always felt that there ought to be in some way a modification of it. In this particular instance, however, I will call the attention of the Chair to the fact that more than debate has occurred since a quorum was last called. Points of order have been made; parliamentary inquiries have been raised, and either withdrawn or decided by the Chair, I do not know which; so that a little more than mere debate has intervened since the last call was made.

The VICE PRESIDENT. The Chair will finish the ruling of the Chair, at least.

Manifestly Vice President Fairbanks was in doubt about the matter, and submitted it to the Senate. The Senate at that time, on the discussion by great parliamentarians and by the vote of great parliamentarians, decided that debate was not business, and that, when a quorum was once disclosed, roll calls were not in order until some business had been transacted by the Senate.

Following the decision of that day by the Senate, upon the following day the same question was raised. It was then decided by Vice President Fairbanks without submission to the Senate, and no appeal was taken to the Senate.

The present occupant of the chair, if called upon to rule, upon first blush, would have taken the same course that Vice President Fairbanks did; but in the light of the authority and the way in which it was settled, the Chair rules that until business has intervened a roll call is not in order.

Mr. CLARKE of Arkansas. Mr. President, I ask the Senator from Connecticut to indulge me for a moment.

Mr. BRANDEGEE. Does the Senator ask me to yield to him?

Mr. CLARKE of Arkansas. Yes.

Mr. BRANDEGEE. I do so.

Mr. CLARKE of Arkansas. I did not like the ruling of the Senate when it was made, in 1909, and I am not particularly pleased with it now. I think at the time it was made it was a ruling that represented the resentment of the Senate rather than its judgment. This matter of calling for a quorum can be abused, and frequently is abused; but it is a substantial right, and a resort to it frequently promotes the convenience and dignity of the Senate, and it ought not to be unduly curtailed.

In the particular instance where the ruling referred to by the Chair was made in 1909, it was obvious that a Senator was seeking to occupy time against the distinct will of the majority of the Senate; and that situation was then deemed to justify the imposition of a strict construction of the rule. I think if a similar instance on the facts is presented the same rule ought

to be applied. I think practically a similar instance has now been presented. I do not believe the debate indulged in by the Senator from Connecticut up to the present time has been substantial debate. He has been reading simply a copy of the bill that is pending, which everybody has heard read and which everybody has had an opportunity to read. There is not the slightest reason for assuming that its being read at this time is intended to enlighten the Senate, or any Member of it.

I would now commit myself to the declaration that where there has been no substantial debate, where there has been exhibited an obvious purpose to kill time, and the calling of the roll was for the purpose of carrying out that general purpose, I think the rule just announced by the Chair should be applied; but there can be instances, and I have known many of them, where it was an entirely proper proceeding to have the roll called pending an address by a Senator.

Saving for myself just that much of leeway to be hereafter exercised in the event that I shall be confronted with the charge of inconsistency, I take the liberty of making the statement that I now submit.

Mr. STONE. Mr. President, I go a little further than my friend from Arkansas.

Mr. BRANDEGEE. Mr. President, if the Senator is discussing a point of order, very well; but I do not want to lose the floor. I yield to the Senator, if he wants to speak in my time. The point of order was raised, and the Chair has ruled, and I assume that I have the floor.

The VICE PRESIDENT. The Senator from Connecticut has the floor.

Mr. STONE. The Senator undoubtedly has the floor.

Mr. BRANDEGEE. Then I yield.

Mr. STONE. He did have the floor, and I suppose he still has it. I will ask the Senator to yield to me for the purpose of making a statement to the Chair.

Mr. BRANDEGEE. I yield.

Mr. STONE. Mr. President, the statement is brief. I, as most Senators with whom I have served here know, have been consistently and persistently opposed to cloture in the Senate. I believe in the largest freedom of real, intelligent, instructive debate, or such as a Senator sincerely means to be such. I would not restrain a Senator in that right of debate in any quantity. Nevertheless, I take the view that a different situation is presented when Senators day after day insist upon making the point of no quorum and calling the roll when it is known, and one roll call after another discloses the fact that there is a quorum, if not actually present in the Senate Chamber, convenient to the Senate Chamber, not only in the city but accessible to the call, and when a call is made a quorum responds to it, showing the presence of a quorum.

We have had the spectacle here for some time past of Senators speaking for a short while, and then some one rising to make the point of no quorum and going through the formality of a roll call, thus consuming considerable time. Then the Senator resumes the floor and his speech, and the same performance is repeated, and so on ad nauseum.

Mr. President, I think the Senate ought to have the right to protect itself against a proceeding of that kind, and when the Senate so protects itself I do not think it is encroaching upon the freedom of debate. It is invoking the rule of procedure established by the vote of the Senate and by the repeated rulings of the Chair to protect itself against the abuse of the right of debate.

My friend from North Carolina [Mr. SIMMONS] says that all we have to do in this case is to apply the law of reason and do a sensible thing that is permissible under parliamentary usage and under the practice of the Senate, as established by the rulings of the Chair and sustained by a vote of the Senate.

I wanted to say just that much, and no more, to let it be known that I put no reservation, as my friend from Arkansas [Mr. CLARKE] seems to do, on the continuing and unquestioned right of the Senate to invoke the practice to which I have referred, which practice is in accordance with the ruling just made by the Chair. I think it ought to stand without limitation.

While I am on the floor I will make just one further remark: This is not the only abuse to which the Senate is subjected, nor the only abuse that can be corrected by the legitimate ruling of the Chair; and we may have occasion to invoke the rulings heretofore made to protect the Senate against those abuses as they arise in the immediate future.

Mr. BRANDEGEE (reading):

SEC. 5. That unfair competition in commerce is hereby declared unlawful.

The commission is hereby empowered and directed to prevent corporations from using unfair methods of competition in commerce.

Whenever the commission shall have reason to believe that any corporation has been or is using any unfair method of competition in commerce, it shall issue and serve upon such corporation a written order, at least 30 days in advance of the time set therein for hearing, directing it to appear before the commission and show cause why an order shall not be issued by the commission restraining and prohibiting it from using such method of competition, and if upon such hearing the commission shall find that the method of competition in question is prohibited by this act it shall thereupon issue an order restraining and prohibiting the use of the same. The commission may at any time modify or set aside, in whole or in part, any order issued by it under this act.

Whenever the commission, after the issuance of such order, shall find that such corporation has not complied therewith, the commission may petition the district court of the United States, within any district where the method in question was used or where such corporation is located or carries on business, praying the court to issue an injunction to enforce such order of the commission; and the court is hereby authorized to issue such injunction.

SEC. 6. That if any corporation subject to this act shall fail to file any annual or special report, as provided in subdivision (b) of section 3 hereof, within the time fixed by the commission for filing the same, and such failure shall continue for 30 days after notice of such default, the corporation shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

SEC. 7. Any person who shall willfully destroy, alter, mutilate, or remove out of the jurisdiction of the United States or authorize, assist in, or be privy to the willful destruction, alteration, mutilation, or removal out of the jurisdiction of the United States of any book, letter, paper, or document containing an entry or memorandum relating to commerce, the production of which the commission may require under this act, or who shall willfully make any false entry relating to commerce in any book of accounts or record of any trade association, corporate combination, or corporation, subject to the provisions of this act, or who shall willfully make or furnish to said commission or to its agent any false statement, return, or record, knowing the same to be false in any material particular, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not exceeding $5,000 or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

Any employee of the commission who divulges any fact or information which may come to his knowledge during the course of his employment by the commission, except in so far as it has been made public by the commission, or as he may be directed by the commission or by a court, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 8. The commission shall have and exercise the powers possessed by the Interstate Commerce Commission to subpœna and compel the attendance and testimony of witnesses and the production of evidence, and to administer oaths. All the powers, requirements, obligations, liabilities, and immunities imposed or conferred by the act to regulate commerce, as amended in relation to testimony before the Interstate Commerce Commission, shall apply to witnesses, testimony, and evidence before the commission.

SEC. 9. The district courts of the United States, upon the application of the commission alleging a failure by any corporation, or by any of its officers or employees, or by any witness, to comply with any order of the commission for the furnishing of information, shall have jurisdiction to issue such writs, orders, or other process as may be necessary to enforce any order of the commission and to punish the disobedience thereof.

SEC. 10. The several departments and bureaus of the Government, when directed by the President, shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any trade association, corporate combination, or corporation, subject to any of the provisions of this act.

Amend the title so as to read: "An act to create a Federal trade commission, to define its powers and duties, and for other purposes."

Mr. President, that is the Federal trade commission bill as reported by the Senate committee. It differs radically from the trade commission bill which has passed the House. I ask that the trade commission bill that passed the House may be printed in the RECORD in conjunction with the bill that I have just read to the Senate, and the Clayton bill.

The PRESIDENT pro tempore. Unless there is objection, it is so ordered. The Chair hears none.

The matter referred to is as follows:

[House bill 15613, as passed by the House of Representatives.]

An act (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

*Be it enacted, etc.*, That a commission is hereby created and established, to be known as the interstate trade commission (hereinafter referred to as the commission), which shall be composed of three commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than two of the commissioners shall be members of the same political party. The first commissioners appointed shall continue in office for terms of two, four, and six years, respectively, from the date of the taking effect of this act, the term of each to be designated by the President, but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. The commission shall choose a chairman from its own membership. No commissioner shall engage in any other business, vocation, or employment. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the commission shall not impair the right of the remaining commissioners to exercise all the powers of the commission.

The commission shall have an official seal, which shall be judicially noticed.

SEC. 2. That each commissioner shall receive a salary of $10,000 a year, payable in the same maner as the salaries of the judges of the courts of the United States. The commission shall appoint a secretary, who shall receive a salary of $5,000 a year, payable in like manner, and it shall have authority to employ and fix the compensation of such other officials, clerks, and employees as it may find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.

Until otherwise provided by law the commission may rent suitable offices for its use.

All of the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders, in making an investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the commission.

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the commission.

SEC. 3. That upon the organization of the commission and election of its chairman all the existing powers, authority, and duties of the Bureau of Corporations and of the Commissioner of Corporations conferred upon them by the act entitled "An act to establish the Department of Commerce and Labor," approved February 14, 1903, and all amendments thereto, and also those conferred upon them by resolution of the United States Senate passed on March 1, 1913, on May 27, 1913, and on June 18, 1913, shall be vested in the commission.

All clerks and employees of the said bureau shall be transferred to and become clerks and employees of the commission at their present grades and salaries. All records, papers, and property of the said bureau shall become records, papers, and property of the commission, and all unexpended funds and appropriations for the use and maintenance of the said bureau shall become funds and appropriations available to be expended by the commission in the exercise of the powers, authority, and duties conferred on it by this act.

That the Bureau of Corporations and the offices of Commissioner of Corporations and Deputy Commissioner of Corporations are, upon the organization of the commission and the election of its chairman, abolished, and their powers, authority, and duties shall be exercised by the commission free from the direction or control of the Secretary of Commerce.

The information obtained by the commission in the exercise of the powers, authority, and duties conferred upon it by this section may be made public, in the discretion of the commission.

SEC. 4. That the principal office of the commission shall be in the city of Washington, where its general sessions shall be held; but whenever the interest of the public may be promoted, or delay or expense prevented, the commission may hold special sessions in any part of the United States. The commission may, by one or more of its members, or by such officers as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

SEC. 5. That, with the exception of the secretary and a clerk to each commissioner, all employees of the commission shall be a part of the classified civil service, and shall enter the service under such rules and regulations as may be prescribed by the commission and by the Civil Service Commission.

SEC. 6. That the words defined in this section shall have the following meaning when found in this act, to wit:

"Commerce" means such commerce as Congress has the power to regulate under the Constitution.

"Corporation" means a body incorporated under law, and also joint-stock associations and all other associations having shares of capital or capital stock or organized to carry on business with a view to profit.

"Capital" means the stocks and bonds issued and the surplus owned by a corporation.

"Antitrust acts" means the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890; also the sections 73 to 77, inclusive, of an act entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August 27, 1894; and also the act entitled "An act to amend sections 73 and 76 of the act of August 27, 1894, entitled 'An act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February 12, 1913.

"Acts to regulate commerce" means the act entitled "An act to regulate commerce," approved February 14, 1887, and all amendments thereto.

"Documentary evidence" means all documents, papers, and correspondence in existence at and after the passage of this act.

SEC. 7. That the several departments and bureaus of the Government, when directed by the President, shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any corporation subject to any of the provisions of this act, and shall detail from time to time such officials and employees to the commission as he may direct.

SEC. 8. That the commission may from time to time make rules and regulations and classifications of corporations for the purpose of carrying out the provisions of this act.

The commission may from time to time employ such special attorneys and experts as it may find necessary for the conduct of its work or for proper representation of the public interest in investigations made by it; and the expenses of such employment shall be paid out of the appropriation for the commission.

Any member of the commission may administer oaths and affirmations and sign subpœnas.

The commission may also order testimony to be taken by deposition in any proceeding or investigation pending under this act. Such depositions may be taken before any official authorized to take depositions by the acts to regulate commerce.

Upon the application of the Attorney General of the United States, at the request of the commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this act or any order of the commission made in pursuance thereof.

SEC. 9. That every corporation engaged in commerce, excepting corporations subject to the acts to regulate commerce, which, by itself or with one or more other corporations owned, operated, controlled, or organized in conjunction with it so as to constitute substantially a business unit, has a capital of not less than $5,000,000, or, having a less capital, belongs to a class of corporations which the commission may designate, shall furnish to the commission annually such information, statements, and records of its organization, bondholders and stockholders, and financial condition, and also such information, statements, and records of its relation to other corporations and its business and practices while engaged in commerce as the commission shall require; and to enable it the better to carry out the purposes of this act the commission may prescribe as near as may be a uniform system of annual reports. The said annual reports shall contain all the required information and statistics for the period of 12 months ending with the fiscal year of each corporation's report, and they shall be made out under oath or otherwise, in the discretion of the commission, and filed with the commission at its office in Washington within three months after the close of the year for which the report is made, unless additional time be granted in any case by the commission. The commission may also require such special reports as it may deem advisable.

If any corporation subject to this section of this act shall fail to make and file said annual reports within the time above specified, or within the time extended by the commission for making and filing the same, or shall fail to make and file any special report within the time fixed by the order of the commission, such corporation shall forfeit to the United States the sum of $100 for each and every day it shall continue in default in making or filing said annual or special reports. Said forfeitures shall be recovered in the manner provided for the recovery of forfeitures under the provisions of the acts to regulate commerce.

SEC. 10. That upon the direction of the President, the Attorney General, or either House of Congress the commission shall investigate and report the facts relating to any alleged violations of the antitrust acts by any corporation. The report of the commission may include recommendations for readjustment of business in order that the corporation investigated may thereafter maintain its organization, management, and conduct of business in accordance with law. Reports made after investigation under this section may be made public in the discretion of the commission.

For the purpose of prosecuting any investigation or proceeding authorized by this section the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against.

SEC. 11. That when in the course of any investigation made under this act the commission shall obtain information concerning any unfair competition or practice in commerce not necessarily constituting a violation of law by the corporation investigated, it shall make report thereof to the President, to aid him in making recommendations to Congress for legislation in relation to the regulation of commerce, and the information so obtained and the report thereof shall be made public by the commission.

SEC. 12. That in any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust acts, the court may, upon the conclusion of the testimony therein, if it shall be then of opinion that the complainant is entitled to relief, refer said suit to the commission to ascertain and report an appropriate form of decree therein; and upon the coming in of such report such exceptions may be filed and such proceedings had in relation thereto as upon the report of a master in other equity causes; but the court may adopt or reject such report, in whole or in part, and enter such decree as the nature of the case may in its judgment require.

SEC. 13. That wherever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and restrain any violation of the antitrust acts, the commission shall have power, and it shall be its duty, upon its own initiative or upon the application of the Attorney General to make investigation of the manner in which the decree has been or is being carried out. It shall transmit to the Attorney General a report embodying its findings as a result of any such investigation, and the report shall be made public in the discretion of the commission.

SEC. 14. That any person who shall willfully make any false entry or statement in any report required to be made under this act shall be deemed guilty of a misdemeanor, and upon conviction shall be subject to a fine of not more than $5,000 or to imprisonment for not more than three years, or both fine and imprisonment.

SEC. 15. That any officer or employee of the commission who shall make public any information obtained by the commission without its authority or as directed by a court shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

SEC. 16. That for the purposes of this act and in aid of its powers of investigation herein granted the commission shall have and exercise the same powers conferred upon the Interstate Commerce Commission in the acts to regulate commerce to subpœna and compel the attendance and testimony of witnesses and the production of documentary evidence and to administer oaths. All the requirements, obligations, liabilities, and immunities imposed or conferred by said acts to regulate commerce and by the act in relation to testimony before the Interstate Commerce Commission, approved February 11, 1893, and the act defining immunity, approved June 30, 1906, shall apply to witnesses, testimony, and documentary evidence before the commission.

SEC. 17. That the commission shall, on or before the 1st day of December in each year, make a report, which shall be transmitted to Congress. This report shall contain such facts and statistics collected by the commission as may be considered of value in the determination of questions connected with the conduct of commerce by corporations, excepting corporations subject to the acts to regulate commerce, including an abstract of the annual and special reports of corporations made to the commission under section 9 of this act: *Provided*, That no trade secrets or private lists of customers shall be embraced in any such abstract. The report shall also include such recommendations as to additional legislation as the commission may deem necessary. The commission may also from time to time publish such additional reports or bulletins of facts and statistics relating to corporations engaged in commerce as may be deemed useful and do not violate the provisions of this act.

SEC. 18. That nothing contained in this act shall be construed to prevent or interfere with the Attorney General in enforcing the provisions of the antitrust acts or the acts to regulate commerce.

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[House bill 15657, as reported to the Senate.]

An act (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

*Be it enacted, etc.*, That "antitrust laws," as used herein, includes the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890; sections 73 to 77, inclusive, of an act entitled "An act to reduce taxation, to provide reve-

nue for the Government, and for other purposes," of August 27, 1894; an act entitled "An act to amend sections 73 and 76 of the act of August 27, 1894, entitled 'An act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February 12, 1913; and also this act.

"Commerce," as used herein, means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: *Provided*, That nothing in this act contained shall apply to the Philippine Islands.

The word "person" or "persons" wherever used in this act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foregin country.

SEC. 2. That it shall be unlawful for any person engaged in commerce either directly or indirectly to discriminate in price between different purchasers of commodities which commodities are sold for use, consumption, or resale within the United States, or any Territory thereof, or the District of Columbia, or any insular possession or other place under the jurisdiction of the United States, with the purpose or intent thereby to destroy or wrongfully injure the business of a competitor of either such purchaser or seller: *Provided*, That nothing herein contained shall prevent discrimination in price between purchasers of commodities on account of differences in the grade, quality, or quantity of the commodity sold, or that makes only due allowance for difference in the cost of selling or transportation or discrimination in price in the same or different communities made in good faith to meet competition and not intended to create monopoly: *And provided further*, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade.

SEC. 4. That it shall be unlawful for any person engaged in commerce to lease or make a sale or contract for sale of goods, wares, merchandise, machinery, supplies, or other commodities, whether patented or unpatented, for use, consumption, or resale within the United States, or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or fix a price charged therefor, or discount from or rebate upon such price, on the condition, agreement, or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities of a competitor or competitors of the lessor or seller.

SEC. 5. That any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

SEC. 6. That a final judgment or decree rendered in any suit or proceeding in equity brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any suit or proceeding brought by any other party against such defendant under said laws as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

Any person may be prosecuted, tried, or punished for any offense under the antitrust laws, and any suit arising under those laws may be maintained if the indictment is found or the suit is brought within six years next after the occurrence of the act or cause of action complained of, any statute of limitation or other provision of law heretofore enacted to the contrary notwithstanding. Whenever any suit or proceeding in equity is instituted by the United States to prevent or restrain violations of any of the antitrust laws the running of the statute of limitations in respect of each and every private right of action arising under said laws and based in whole or in part on any matter complained of in said suit or proceeding shall be suspended during the pendency thereof: *Provided*, That this shall not be held to extend the statute of limitations in the case of offenses heretofore committed.

SEC. 7. That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade, under the antitrust laws.

SEC. 8. That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce where the effect of such acquisition is to eliminate or substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to create a monopoly of any line of commerce.

No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of two or more corporations engaged in commerce where the effect of such acquisition, or the use of such stock by the voting or granting of proxies or otherwise, is to eliminate or substantially lessen competition between such corporations, or any of them, whose stock or other share capital is so acquired, or to create a monopoly of any line of commerce.

This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to eliminate or substantially lessen competition.

Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such common carrier from acquiring and owning all or any part of the stock of a branch or short line constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other such common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: *Provided*, That nothing herein shall be held or construed to authorize or make lawful anything prohibited and made illegal by the antitrust laws.

SEC. 9. After two years from the approval of this act no common carrier engaged in commerce having upon its board of directors or as its president, manager, or purchasing officer or agent any person who is at the same time an officer, director, manager, or general agent of, or who has any direct or indirect interest in, another corporation, firm, partnership, or association, with which latter corporation, firm, partnership, or association, or with such person such common carrier shall make purchases of supplies or articles of commerce or have any dealings in securities, railroad supplies, or other articles of commerce or contracts for construction or maintenance of any kind with any such corporation, firm, partnership, or association to the amount of more than $50,000 in any one year, unless and except such purchases shall be made from or such dealings shall be with the bidder whose bid is the most favorable to such common carrier, to be ascertained by competitive bidding after public notice published in a newspaper or newspapers of general circulation, to be named and the time, character and scope of the publication to be prescribed by rule or otherwise by the Interstate Commerce Commission. No bid shall be received unless the names and addresses of the officers, directors, and general managers thereof, if it be a corporation, or of the members, if it be a partnership or firm, be given with the bid.

Any person who shall, directly or indirectly, do or attempt to do anything to prevent anyone from bidding or shall do any act to prevent free and fair competition among the bidders or those desiring to bid shall be punished as prescribed in this section.

Every such common carrier having any such transactions or making any such purchases shall within 10 days after making the same file with the Interstate Commerce Commission a full and detailed statement of the transaction showing the manner and time of the advertisement given for competition, who were the bidders, and the names and addresses of the directors and officers of the corporations and the members of the firm or partnership bidding; and whenever the said commission shall have reason to believe that the law has been violated in and about the said purchases or transactions it shall transmit all papers and documents and its own views or findings regarding the transaction to the Attorney General.

If any common carrier shall violate this section, every director or officer thereof who shall have knowingly voted for or directed the act constituting such violation or who shall have aided or abetted in such violation shall be deemed guilty of a misdemeanor and shall be fined not exceeding $25,000 and confined in jail not exceeding two years, in the discretion of the court.

That from and after two years from the date of the approval of this act no person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than $1,000,000, engaged in whole or in part in commerce, other than common carriers subject to the act to regulate commerce, approved February 4, 1887, if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws. The eligibility of a director under the foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to stockholders, at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the provisions of this act it shall be lawful for him to continue as such for one year thereafter.

When any person elected or chosen as a director or officer or selected as an employee of any corporation subject to the provisions of this act is eligible at the time of his election or selection to act for such corporation in such capacity, his eligibility to act in such capacity shall not be affected, and he shall not become or be deemed amenable to any of the provisions hereof by reason of any change in the affairs of such corporation from whatsoever cause, whether specifically excepted by any of the provisions hereof or not, until the expiration of one year from the date of his election or employment.

SEC. 9a. Every president, director, officer, or manager of any firm, association, or corporation engaged in commerce as a common carrier who embezzles, steals, abstracts, or willfully misapplies any of the moneys, funds, credits, securities, property, or assets of such firm, association, or corporation, or willfully or knowingly converts the same to his own use or to the use of another, shall be deemed guilty of a felony and upon conviction shall be fined not less than $500 or confined in the penitentiary not less than 1 year nor more than 10 years, or both, in the discretion of the court.

Prosecutions hereunder may be in the district court of the United States for the district wherein the offense may have been committed.

SEC. 9b. That authority to enforce compliance with the provisions of sections 2, 4, 8, and 9 of this act by the corporations, associations, partnerships, and individuals respectively subject thereto is hereby vested: In the Interstate Commerce Commission where applicable to common carriers and in the Federal trade commission where applicable to all other character of commerce, to be exercised as follows:

Whenever the commission vested with jurisdiction thereof has reason to believe, either upon information furnished by its agents or employees or upon complaint, duly verified by affidavit, of any interested person, that any corporation, association, partnership, or individual is violating any of the provisions of sections 2, 4, 8, and 9 of this act, it shall issue and cause to be served a notice, accompanied with a written statement of the violation charged, upon such corporation, association, partnership, or individual, who shall thereupon be called upon, within a reasonable time fixed in such notice, not to exceed 30 days thereafter, to appear and show cause why an order should not issue to restrain and prohibit the violation charged. If upon a hearing held pursuant to such notice it shall appear to the commission that any of the provisions of said sections have been or are being violated, then it shall

issue and cause to be served an order commanding such corporation, association, partnership, or individual forthwith to cease and desist from such violation, and to transfer or dispose of the stock or resign from the directorships held contrary to the provisions of sections 8 or 9, as the case may be, within the time and in the manner prescribed in said order. Any such order may be modified or set aside at any time by the commission issuing it for good cause shown.

If any corporation, association, partnership, or individual charged with obedience thereto fails and neglects to obey any such order of a commission, the said commission, by its attorneys, if any it has, or by the appropriate district attorney acting under the direction of the Attorney General of the United States, may apply for an enforcement of such order to the district court of the United States for the district wherein such corporation, association, partnership, or individual is an inhabitant or may be found or transacts any business, and therewith transmit to the said court the original record in the proceeding, including all the testimony taken therein and the report and order of the commission. Upon the filing of the record, the court shall have jurisdiction of the proceeding and of the questions determined therein and shall have power to make and to enter upon the pleadings, testimony, and proceedings such orders and decrees as may be just and equitable.

On motion of the commission and on such notice as the court shall deem reasonable, the court shall set down the cause for summary final hearing. Upon such final hearing the finding of the commission shall be prima facie evidence of the facts therein stated, but if either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission, the court may allow such additional evidence to be taken before the commission or before a master appointed by the court and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem just.

Disobedience to any order or decree which may be made in any such proceeding or any injunction or other process issued therein shall be punished by a fine not exceeding $100 a day during the continuance of such disobedience or by imprisonment not exceeding one year, or by both such fine and imprisonment.

Any party to any proceeding brought under the provisions of this section before either the Interstate Commerce Commission or the Federal trade commission, including the person upon whose complaint such proceeding shall have been begun, as well as the United States by and through the Attorney General thereof, may appeal from any final order made by either of such commissions to any court having jurisdiction to enforce any order which might have been made upon application of such commission as hereinbefore provided, at any time within 90 days from the date of the entry of the order appealed from, by serving notice upon the adverse party and filing the same with the said commission; and thereupon the same proceedings shall be had as prescribed herein in the case of an application by the same commission for the enforcement of its order as hereinbefore provided.

Any final order or decree made by any district court in any proceeding brought under this section may be reviewed by the Supreme Court upon appeal, as in cases in equity, taken within 90 days from the entry of such order or decree.

SEC. 10. That any suit, action, or proceeding under the antitrust laws against a corporation may be brought not only in the judicial district whereof it is an inhabitant, but also any district wherein it may be found or transacts any business; and all process in such cases may be served in the district of which it is an inhabitant, or wherever it may be found.

SEC. 11. That in any suit, action, or proceeding brought by or on behalf of the United States subpœnas for witnesses who are required to attend a court of the United States in any judicial district in any case, civil or criminal, arising under the antitrust laws may run into any other district.

SEC. 12. That every director, officer, or agent of a corporation which shall violate any of the penal provisions of the antitrust laws, who shall have aided, abetted, counseled, commanded, induced, or procured such violation, shall be deemed guilty of a misdemeanor, and upon conviction therefor of any such director, officer, or agent he shall be punished by a fine of not exceeding $5,000 or by imprisonment for not exceeding one year, or by both, in the discretion of the court.

SEC. 13. That the several district courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act, and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition, the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition, and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises. Whenever it shall appear to the court before which any such proceeding may be pending that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not, and subpœnas to that end may be served in any district by the marshal thereof.

SEC. 14. That any person, firm, corporation, or association shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by a violation of the antitrust laws, including sections 2, 4, 8, and 9 of this act, when and under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity, under the rules governing such proceedings, and upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue.

SEC. 15. That no preliminary injunction shall be issued without notice to the opposite party.

No temporary restraining order shall be granted without notice to the opposite party unless it shall clearly appear from specific facts shown by affidavit or by the verified bill that immediate and irreparable injury, loss, or damage will result to the applicant before notice can be served and a hearing had thereon. Every such temporary restraining order shall be indorsed with the date and hour of issuance, shall be forthwith filed in the clerk's office and entered of record, shall define the injury and state why it is irreparable and why the order was granted without notice, and shall by its terms expire within such time after entry, not to exceed 10 days, as the court or judge may fix, unless within the time so fixed the order is extended for a like period for good cause shown, and the reasons for such extension shall be entered of record. In case a temporary restraining order shall be granted without notice in the contingency specified, the matter of the issuance of a preliminary injunction shall be set down for a hearing at the earliest possible time and shall take precedence of all matters except older matters of the same character; and when the same comes up for hearing the party obtaining the temporary restraining order shall proceed with the application for a preliminary injunction, and if he does not do so the court shall dissolve the temporary restraining order. Upon two days' notice to the party obtaining such temporary restraining order the opposite party may appear and move the dissolution or modification of the order, and in that event the court or judge shall proceed to hear and determine the motion as expeditiously as the ends of justice may require.

Section 263 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, is hereby repealed.

Nothing in this section contained shall be deemed to alter, repeal, or amend section 266 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911.

SEC. 16. That no restraining order or interlocutory order of injunction shall issue, except upon the giving of security by the applicant in such sum as the court or judge may deem proper, conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained thereby.

SEC. 17. That every order of injunction or restraining order shall set forth the reasons for the issuance of the same, shall be specific in terms, and shall describe in reasonable detail, and not by reference to the bill of complaint or other document, the act or acts sought to be restrained, and shall be binding only upon the parties to the suit, their officers, agents, servants, employees, and attorneys, or those in active concert or participating with them, and who shall, by personal service or otherwise, have received actual notice of the same.

SEC. 18. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving, or growing out of, a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

And no such restraining order or injuction shall prohibit any person or persons whether singly or in concert from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from peacefully persuading any person to work or to abstain from working; or from withholding their patronage from any party to such dispute, or from recommending, advising, or persuading others by peaceful and lawful means so to do; or from paying or giving to, or withholding from, any person engaged in such dispute, any strike benefits or other moneys or things of value; or from peaceably assembling in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto; nor shall any of the acts specified in this paragraph be considered or held to be violations of the antitrust laws.

SEC. 19. That any person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia by doing any act or thing therein, or thereby forbidden to be done by him, if the act or thing so done by him be of such character as to constitute also a criminal offense under any statute of the United States, or under the laws of any State in which the act was committed, shall be proceeded against for his said contempt as hereinafter provided.

SEC. 20. That whenever it shall be made to appear to any district court or judge thereof, or to any judge therein sitting, by the return of a proper officer on lawful process, or upon the affidavit of some credible person, or by information filed by any district attorney, that there is reasonable ground to believe that any person has been guilty of such contempt, the court or judge thereof, or any judge therein sitting, may issue a rule requiring the said person so charged to show cause upon a day certain why he should not be punished therefor, which rule, together with a copy of the affidavit or information, shall be served upon the person charged, with sufficient promptness to enable him to prepare for and make return to the order at the time fixed therein. If upon or by such return, in the judgment of the court, the alleged contempt be not sufficiently purged, a trial shall be directed at a time and place fixed by the court: *Provided, however*, That if the accused, being a natural person, fail or refuse to make return to the rule to show cause, an attachment may issue against his person to compel an answer, and in case of his continued failure or refusal, or if for any reason it be impracticable to dispose of the matter on the return day, he may be required to give reasonable bail for his attendance at the trial and his submission to the final judgment of the court. Where the accused is a body corporate, an attachment for the sequestration of its property may be issued upon like refusal or failure to answer.

In all cases within the purview of this act such trial may be by the court, or, upon demand of the accused, by a jury; in which latter event the court may impanel a jury from the jurors then in attendance, or the court or the judge thereof in chambers may cause a sufficient number of jurors to be selected and summoned, as provided by law, to attend at the time and place of trial, at which time a jury shall be selected and impaneled as upon a trial for misdemeanor; and such trial shall conform as near as may be to the practice in criminal cases prosecuted by indictment or upon information.

If the accused be found guilty, judgment shall be entered accordingly, prescribing the punishment, either by fine or imprisonment, or both, in the discretion of the court. Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them as the court may direct, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of $1,000, nor shall such imprisonment exceed the term of six months: *Provided*, That in any case the court or a judge thereof may, for good cause shown, by affidavit or proof taken in open court or before such judge and filed with the papers in the case, dispense with the rule to show cause, and may issue an attachment for the arrest of the person charged with contempt; in which

event such person, when arrested, shall be brought before such court or a judge thereof without unnecessary delay and shall be admitted to bail in a reasonable penalty for his appearance to answer to the charge or for trial for the contempt; and thereafter the proceedings shall be the same as provided herein in case the rule had issued in the first instance.

SEC. 21. That the evidence taken upon the trial of any persons so accused may be preserved by bill of exceptions, and any judgment of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified as justice may require. Upon the granting of such writ of error, execution of judgment shall be stayed, and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in such reasonable sum as may be required by the court, or by any justice, or any judge of any district court of the United States or any court of the District of Columbia.

SEC. 22. That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all other cases of contempt not specifically embraced within section 19 of this act, may be punished in conformity to the usages at law and in equity now prevailing.

SEC. 23. That no proceeding for contempt shall be instituted against any person unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act or acts; but nothing herein contained shall affect any proceedings in contempt pending at the time of the passage of this act.

Mr. BRANDEGEE. Mr. President, the Clayton bill should be considered at the same time that the Federal trade commission bill is considered. They are interrelated. The Clayton bill itself imposes certain duties upon the commission to execute, and nobody can intelligently comprehend the class of legislation hereby contemplated, or the effect of the legislation, unless he considers both bills at the same time.

Mr. President, I am opposed to the interstate commission bill, not only to section 5 of it but to the entire proposition of erecting a Federal trade commission in this country. I see no reason whatever for inflicting that sort of a burden upon the varied business interests of the land. There is at present a Commissioner of Corporations. He has many of the powers given to this Federal trade commission, but this proposition is to abolish the office of Commissioner of Corporations and confer all the powers that the present commissioner has and all his duties and others upon this expensive Federal trade commission.

In all seriousness, what demand is there in the country for the creation of a commission sitting here at Washington, the members of which are to be appointed by the President and confirmed by the Senate and who are to be paid $10,000 a year each? Would any man manage his private business, no matter how extensive, by a commission with such an absurdity as that?

The Senator from Nevada who reports this bill says that the commission will only investigate or exercise its powers over a very few of the vast number of corporations which the Senator from Massachusetts [Mr. WEEKS] showed by the statistics were to be subjected to this commission. Mr. President, if there is any such intention as that to limit the powers of the commission, it should be expressed in the bill. If it is only the intention to have this commission exercise jurisdiction over corporations whose gross receipts are a million or five million dollars, or to have the number of corporations subject to its jurisdiction limited in any other way, the bill should say so.

But the Senator from Idaho [Mr. BORAH] in opening the debate on this question the other day called the attention of the Senate and the country to what is happening in this country. The Government, through the Interstate Commerce Commission, exercises jurisdiction over all the interstate transportation of the country; the Government, through the Federal Reserve Board, has reached out and taken control of the entire banking and currency system of the country; and now it is proposed to set up this great Federal commission of five commissioners at $10,000 a year here in Washington to take control of all the private business of the people of this country which is conducted in corporate form, embracing trade associations and partnerships or any other combinations of citizens or of capital if they have capital stock.

It seems to me the creation of this commission is really embarking this Government upon a socialistic program of government. What is there to be left that is not regulated by the Government here at Washington? Mind you, Mr. President, this is all to be done under the commerce clause of the Constitution. The Constitution gives Congress the power to regulate commerce among the States. Everyone who is familiar with the reasons for putting that clause into the Constitution knows that it was put there for the purpose of keeping the channels of commerce among the States open and free from obstruction. The attention of the founders of the Government and the makers of the Constitution had been drawn to the fact that the old articles of confederation left the State of New York with authority to block South Carolina from the use of the Hudson River, the State of Connecticut to prohibit the State of Georgia from the use of the Connecticut River, and the object of conferring upon Congress the authority to regulate commerce among the States was to keep the great arteries of commerce among the States free from obstruction.

If the founders of the Constitution had been told that in the year 1914 the Congress of the United States was to be invoked to set up a Federal commission in Washington to order about private business men engaged in the thousands of occupations which engross the attention of the business men in this country, to tell them in what method they might compete among themselves for business, and how their salesmen should act out upon the road in getting contracts and orders, and that this Federal commission here in Washington was to have authority to send out its inspectors and examine and order the private business men in this country in their own offices to open their safes, their private letter books, reveal their correspondence, their contracts, their agreements with each other, to the inspection of a man bearing a card from this Federal commission here in Washington, they would have stood aghast at such a contention.

Mr. President, the Constitution of the United States provides in the fourth amendment:

> The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation and particularly describing the place to be searched and the persons or things to be seized.

This bill provides that in any case this commission takes up for investigation all the documents and private papers of the party the commission thinks may be indulging in an unfair method of competition shall be open to the inspection of this Federal commission here in Washington.

The Democratic Party heretofore has claimed to be a party that believes in some personal liberty in this country. They were against sumptuary laws; they were against inquisitorial proceedings; they were against the concentration of power here in Washington. They had some respect for State rights. They had some idea that their own constituents at home were capable of doing some things for themselves. But if the Government is to manage the private business affairs of this country as they have managed the railroad affairs of this country, then I think the people will uprise and overthrow this whole theory of commission government here in Washington. It will become intolerable. What activity in the United States of America is left to the people? All the transportation is controlled by the Interstate Commerce Commission. It is now proposed to control the issue of securities by the railroads chartered by the States by the Interstate Commerce Commission.

I think it may be a good thing, if we have the power to do it, for the Interstate Commerce Commission, which is a commission already existing, to exercise some supervision over the question of securities by the railroads chartered by the States; but there is a grave question in my mind whether, under the Constitution, we have the power to do it. Whether the regulation of the issuing of the securities necessary for the building of the railroads chartered by a State is the regulation of an instrumentality of commerce among the States in the view of the Constitution may be, and is in my opinion, a very doubtful question. But if they can do that; if the Interstate Commerce Commission can say to the railroads at what price they shall sell what they have to sell, how many securities they shall issue, whether they shall be allowed to take in any other lines of railroad, and, if so, which railroads shall be allowed to take in another line, and where they shall build, and what securities they shall issue, and at what price they shall be marketed—if those things can be done by the Interstate Commerce Commission, then, with everything that the railroad company has to buy controlled by other powers beyond its control, with the board of directors, with what it has to sell fixed by the Government, with what it has to buy fixed by powers beyond its control, with the stockholders asking them to earn a dividend between the income and the outgo fixed by a power beyond their authority, the state of the railroads is indeed a bad one, because the Interstate Commerce Commission becomes practically the board of directors of the operating railroad corporation, and because the Government of the United States, acting through its Interstate Commerce Commission, is in fact operating the railroads by ordering the directors how to operate them, and the private people who own the stocks and securities of those roads, and their directors, who are their trustees and servants, are prevented from managing the property of the stockholders as they think it should be managed or for their own benefit, and the control of the Government is substituted for that of the owners.

But the Government declines to assume the deficit or the liability or the result of the management that it itself imposes upon the railroads.

Now, all the finances of the country are to be controlled by this other Government commission. I want to call the attention of the Senate to the fact that we have seen in the last few days one of the difficulties that is going to arise in this country if the country is to be governed by commissions. The things that we are putting commissions in charge of are fundamental things. The transportation of the country is fundamental. The currency, the lifeblood of the commerce of the country, is fundamental. We have decided that it shall be done by a commission, a Federal Reserve Board. We have not yet been able to fill the commission.

What will be the character of the commission if we are now to set up a Federal trade commission to manage all the other business of the country which is in corporate form? For let no one think that only the big trusts are going to be managed by this Federal trade commission. There is nothing in the bill about a trust. There is nothing in the bill about a monopoly. There is nothing in the bill about the Sherman law, except that if the commission thinks it has been violated they shall so advise the Attorney General, who already has that duty imposed on him by law.

The bill operates upon corporations engaged in commerce, which commerce is to be defined as that commerce which Congress has the power to regulate, which is commerce among the States. What corporation that is doing a business of $10,000 a year is not engaged in commerce among the States? There is no corporation but what is engaged in commerce among the States in these days. Either they buy their raw material or they sell their manufactured product beyond the State line. There is no corporation so small but what it is buying or selling something over State lines.

Now, what sort of men will be put on this Federal trade commission if it is created with these powers? The President is to choose them. Who will satisfy the Senate of the United States and the business of the United States to sit in judgment with this arbitrary and indefinite authority of saying what is fair or what is unfair and what the power to issue their peremptory order for one of these corporations to stop doing what in the opinion of three out of five of these men is unfair?

Mr. President, if that authority is ever given to anybody in this country, we have ceased to be a free country. The opinions of the business men are at variance. What would Mr. Jones, who was a candidate for the Federal Reserve Board here, with his ideas about the methods of competition indulged in by the Harvester Trust, which he says he approves of, consider to be an unfair method of competition? He says he thinks what he is doing now is fair. What would a great business man like George W. Perkins, if he were appointed on the Federal trade commission, say about practices which are fair or unfair? What sort of men are to be placed on the board? If men who approve of the large business units and of the present methods of operation of the great corporations of this country are to be excluded from the membership of the board, what sort of men are to be put on the board? What is to happen if a complaint is made before this Federal commission that the Harvester Trust is engaged in an unfair method of competition, and the commission, after inspecting the whole process which constitutes the method and their acts, say that it is a fair method of competition? Is, then, the Attorney General and the Department of Justice to file a suit against them under the Sherman law if there is criticism of the opinion of the Federal trade commission? Are these people who have been adjudged to be in fair competition by the Federal trade commission to be sent to jail for violating the Sherman law as committing a restraint of trade? Of what use is this commission, then, in removing from the minds of the business men of the country the apprehension that they may be violating the law?

Mr. President, the business men of this country have asked for some sort of a commission which would give them relief from the restrictions and limitations placed upon them by the Sherman law. That was the origin of the demand for a trade commission. That was what the Progressive platform demanded. That was what the great majority of the witnesses said who appeared before the Interstate Commerce Committee in response to the resolution introduced by the Senator from Minnesota [Mr. CLAPP] calling upon Congress to say whether any other legislation was necessary in relation to the Sherman law. They all said that they wanted a commission which would authorize agreements. All sorts of methods were proposed there. If I remember correctly, the Senator from Mississippi [Mr. WILLIAMS] advocated a plan which had been suggested by some gentleman in New York whose name now escapes me, who had given great attention to this question, by which Congress should prohibit from interstate commerce corporations that were chartered by the respective States with powers that did not accord with some standards that the national law was to lay down. That was one way of preventing the operations of trusts and of making it plain what business men could do. But there were a thousand ways suggested. The minds of the business men of this country are not made up upon this question at all.

The Commissioner of Corporations a few years ago wrote a letter to the chairman of the Senate Committee on Interstate Commerce which he has made a part of his report, and that Commissioner of Corporations, after his experience in the office, among the suggestions that he had to make, said:

> Shall an interstate trade commission be organized?
> If the work is to be simply that of investigation and publicity, my experience would indicate that an organization under a single head would be decidedly more efficient.

That is just where the Commissioner of Corporations has it now. Then, in discussing whether any sort of quasi judicial power should be attempted to be conferred upon this commission, he said:

> Thus, as stated in paragraph 5 above, rules of action and grounds for cancellation of registration should be set forth in the bill itself, with sufficient definition to make clear the intention of Congress as to the class of acts to be covered thereby. For example, the word "overcapitalization" is perhaps sufficiently definite in itself, while "unfair or oppressive methods of competition" would perhaps be too indefinite.

He knows it is too indefinite. The decisions and authorities which the Senator from Nevada [Mr. NEWLANDS] has put into his report are from the courts, where they have upheld certain duties imposed upon commissions created by Congress as not being clear delegations of legislative authority and are not at all in point as to the construction of this phrase "unfair competition." In every one of these authorities the court has held that the Congress must prescribe the primary standard or rule within which the commission may exercise its discretion in taking up the particular objects to come within the rule.

There is no rule whatever laid down here. This bill does not accord with the recommendations of the President of the United States in his message to Congress. The President asked the Congress to lay down the definite rule by which business men should be governed. That is a law. This lays down no rule.

If they who claim that the junior Senator from Missouri [Mr. REED] is right, that unfair competition has a definite meaning in the law, that it means something, that there must be the element of deceit or fraud or attempt to impose upon somebody in order to make it unfair to bring it within the decisions of the courts upon that subject—if that is what is proposed to be conferred upon this Federal trade commission, then it is a clear attempt by the legislative branch of the Government to impose judicial powers now exercised by the judiciary upon this executive administrative commission.

If "unfair" means something else less defined than that—if it means, as the Senator from Iowa said the other day, what it means as used in the English language—then it means what the dictionaries say "unfair" means in the English language. If anyone will look in the dictionary, as I did the other day, and put into the RECORD the definitions and synonyms given by even but one dictionary of what "unfair" means in the English language, this commission is sent out to roam the fields of fancy and to extract any meaning they choose to give, provided it can be found in the dictionary after the use of the word "unfair," if that loose term, as thus popularly used, is to be the guide of this commission, and there is no use in passing this section 5 unless it is to be. Then it would be intolerable to any American people to be governed by what three out of five men about whose appointment they have nothing to say should guess, from instance to instance and from day to day, about what that word might mean.

It is not proposed to confer this judicial power or even any quasi judicial power upon this Federal trade commission; there is no excuse whatever for the creation of it. The commission would degenerate simply into a smelling committee, to be dragged around to investigate people who were complained of by their competitors. As I said, if private business, charged with no use of common carriers at all, simply because it operates beyond State lines, is to have this Federal commission imposed upon it as its guide and as its boss, you will simply raise up in this country such a protest against the whole idea of government by commission as was never seen in the country before, and it ought to rise up. I have sufficient confidence in the independence, in the virility, in the high respect of the ordinary American citizen to be confident that after what he has been through to obtain liberty, guaranteed by law and constitutional limitations, he will never submit to government by irresponsible

commission of that nature. It is nothing but despotism, Mr. President, in a free country, from start to finish.

As provided by this bill, there is no opportunity for any judicial power to be exercised from the time a complaint is made of unfair competition until the time when the man against whom the complaint was made finds himself in jail. There has been no exercise of judicial power if this commission as thus constituted can be sustained in law. That can not exist in a free country. That leaves it to the Executive to appoint commissioners and put men in prison. Of course they can always find something in their judgment to be unfair, but the people will not tolerate to be governed by method, because here are commissioners to be appointed for terms of seven years.

The period of their tenure of office outlasts three terms of a Member of the lower House of Congress from his home district. It overlaps an entire senatorial term. It covers nearly all presidential terms. To whom are these commissioners responsible? There has been a great movement in this country and a great outcry about restoring the Government to the people. Is that restoring the Government to the people? That is taking the Government away from the people. That is erecting a Frankenstein and breathing the breath of life into it and turning it loose upon this country, responsible to no one. If they could have their way, they would prevent the courts from enjoining this commission. They want the mere ipse dixit of this commission to be final and conclusive in the premises.

Some people have thought they could remedy the glaring defects of section 5 by providing for some sort of a court review of the findings of the commission, and there are amendments pending here, offered by various Senators, to certify the record from the commission, together with all the testimony, to a judge of a United States court and have him examine the testimony that was taken and the decision to which the commission has come, and to have it reviewed, to have another trial about it; but the obvious answer to all that circumlocution is, if you have got to go into court and have a trial as to whether a method of competition is fair or unfair, why send a man around by this circuitous route? Why compel him to go to the trade commission and undergo a trial, and then have him go to court about it, where he can go now, before you ever establish a commission? What is the sense in that?

To be sure, the bill sets up five new grandees in this country at $10,000 apiece—Federal trade commissioners—at the expense of the Government; it provides $50,000 for this tribunal, to begin with, irrespective of any of its accouterments, or of any of its attachments, or of any of its vast army of field agents and inspectors and detectives. The cost of this commission, if it justifies its existence in its activities, will be perfectly tremendous, Mr. President, and will increase from year to year beyond all bounds. We know to what extent the Forestry Service developed under a previous administration.

These five commissioners, some people think, would simply attack or inspect or investigate the greatest of the existing corporations, but if they do only that, they are denying the relief that the proponents of this bill claim should be extended to all, to the largest number of people who claim they have been aggrieved in the country, because it is not a question of the amount of business that is done by a corporation or the extent of its capital stock; the question is, Is the method of competition fair or unfair? It is the moral quality of the act. Whether the complainant be an individual or a rival corporation, if this tribunal is to sit there to do justice, it has to hear his case as well as the case of the Standard Oil or the Tobacco Corporation or the Harvester Trust.

Mr. President, these three or four bills, or whatever the number of them may be, have been tagged by a name which is intended to appeal to the people who are against trusts; they are called trust bills. They go out to the country as though they were bills to hurt the great trusts. Well, this Federal trade-commission bill is in no sense an antitrust bill. As the Senator from Minnesota [Mr. NELSON] has observed, the trusts can flourish under that bill to their heart's content. It is not to be supposed that the commission would find one method fair if it were practiced by a trust and another unfair if it were practiced by some corporation that was not big enough in their opinion to be called a trust. The moral quality of the act will be the same, no matter by whom it is committed. Therefore, this commission, to justify its existence and to get the people to permit it to exist, will have to get busy. Those who think it will not be doing anything, in my opinion, are very much mistaken.

To the few business men who favor this bill, I can wish no greater calamity than to have it imposed upon them. Of course most of them do not know what it is; of course later on, if the bill should be passed, the very business men who have supposed they were for it will be coming to us and saying, "What in the name of heaven did you allow that thing to get through for? What did you ever set it up in this country for?" When you respond to them, "Why, you signed a petition for that bill; you asked that a law be passed so that you could know exactly what you could do and what you must not do," they will say, "Oh, well, you know I belong to the So-and-so Chamber of Commerce and the United States Chamber of Commerce, who had their committee in Washington send us around a form to approve favoring a Federal trade commission bill, and we got the secretary and the treasurer and the president together and unanimously adopted a resolution and sent it on to the United States Chamber of Commerce, and they published it in a very handsome pamphlet; but we did not know anything about it. We supposed, of course, they knew their business and would not ask for any kind of a trade commission that was going to be a persecution, a kind of a hairshirt, instead of a salve or a poultice to us. We thought they knew their business, and we thought you knew your business. We elected you to go down there and make laws for us; we did not suppose you would be bothered by any action we might take in order to save our faces and to stand well with the agitators, who get national prominence and conspicuity by hanging around Washington and keeping the Printing Office going with their suggestions and amendments and polings. We did not suppose you would pay much attention to those things and you ought not to have done so." And they will be right about it.

There is not any demand for this bill in the country. If so, where is it? Of course, the Senators who are on the committee which reported the bill, and who have perpetrated it, have got to stand by it and have got to claim that there is somewhere a tremendous uprising for this new imposition to be set up here, to prove the truth of the declaration of the fathers of the Democratic Party that that government governs best which governs least and minds its own business and lets its citizens try to make a living in their own way so long as they do not violate the law. Therefore we set up this commission of busybodies.

Mr. WEEKS. Mr. President——

The PRESIDING OFFICER (Mr. MARTINE of New Jersey in the chair). Does the Senator from Connecticut yield to the Senator from Massachusetts?

Mr. BRANDEGEE. I do.

Mr. WEEKS. It seems to me, Mr. President, that the Senator from Connecticut is engaged in a very interesting discussion of the merits of this legislation. There is far from being a quorum in the Chamber. I make the point of no quorum.

The PRESIDING OFFICER. The Senator from Massachusetts makes the point that no quorum is present. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

| | | | |
|---|---|---|---|
| Ashurst | Gallinger | Nelson | Smoot |
| Bankhead | Gronna | Newlands | Stone |
| Brady | Hollis | Norris | Swanson |
| Brandegee | Hughes | Overman | Thomas |
| Bristow | Jones | Owen | Thornton |
| Bryan | Kenyon | Page | Tillman |
| Camden | Kern | Perkins | Vardaman |
| Catron | Lane | Pomerene | Walsh |
| Chamberlain | Lea, Tenn. | Reed | Weeks |
| Clapp | Lee, Md. | Shafroth | West |
| Clark, Wyo. | Lewis | Sheppard | White |
| Clarke, Ark. | Martin, Va. | Simmons | Williams |
| Crawford | Martine, N. J. | Smith, Ariz. | |
| Cummins | Myers | Smith, Md. | |

Mr. KERN. Mr. President, I desire to announce the unavoidable absence of my colleague [Mr. SHIVELY]. He is paired. This announcement may stand for the day.

The PRESIDING OFFICER. Fifty-four Senators have responded to their names. A quorum is present.

Mr. STONE. Mr. President——

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BRANDEGEE. Mr. President, I think I have the floor.

Mr. STONE. I rise to make a statement.

Mr. BRANDEGEE. Before the Senator does so——

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Missouri?

Mr. STONE. I rise to a question of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. STONE. I am not asking the consent of the Senator. My position is that the Senator from Connecticut [Mr. BRANDEGEE] is not entitled to proceed, as he has forfeited his right to the floor.

The PRESIDING OFFICER. For what reason?

Mr. STONE. I will state the reason, if the Chair will be patient for a moment.

The rules provide that no Senator can speak more than twice on a question before the Senate during the same legislative day. The Senator from Connecticut, while addressing the Senate this morning, yielded the floor; another matter was debated in the form of a parliamentary inquiry, and a point of order was made. The Senator resumed the floor and has yielded the second time, in order that the Senator from Massachusetts [Mr. WEEKS] might make the point that no quorum was present, which the Chair ought, in my judgment, to have ruled out of order. The Chair ought to have ruled it out of order because 30 minutes ago the Vice President, while in the chair, decided that the presence of a quorum having been disclosed on a previous roll call a second roll call was not in order until business had intervened, and that debate was not business. That very question was decided by a former Vice President; that very question was submitted to the Senate; and the Senate held that debate was not business within the meaning of the rule. Vice President Marshall, while presiding this morning, so held and denied the request for a roll call.

I suppose the attention of the Chair was not called to the matter. I happened for the moment to be in the Marble Room, having been called there by a couple of gentlemen from my State who desired to see me, and it was during my absence that the Senator from Massachusetts made the point of no quorum, which was not in order, but he could not make the point unless the Senator from Connecticut yielded to him. He did yield, and when he yielded his right to resume the floor was at an end.

Mr. WEEKS. Mr. President——

Mr. STONE. Now, Mr. President, I rise at this time not to press the point of order, but to give notice that if this thing occurs again I shall undertake to read the precedents upon that point, and will make the point of order, if the Senator yields the floor again, that he is not entitled to resume the floor.

Mr. WEEKS. Mr. President, I should like to inquire of the Senator from Missouri if it would make any difference in his conclusion if he knew that the Senator from Connecticut did not know for what purpose he yielded to me? The Senator from Missouri has stated that the Senator from Connecticut yielded to me for the purpose of making the point of no quorum. He did not know but that I was going to ask him a question in connection with the matter which he was discussing. He did not yield the floor.

Mr. STONE. The Senator from Massachusetts had no right to make the point of no quorum in the time of the Senator from Connecticut without his consent, unless he yielded to the Senator for that purpose; and it boots nothing to say now that the Senator from Connecticut was unaware for what purpose the Senator from Massachusetts rose. So far as the question of calling the roll is concerned, it makes no difference whether the Senator from Connecticut made the point of no quorum himself or whether some other Senator made it; it was not in order, under the ruling of the Chair.

The other point, Mr. President, to which I have referred, I do not now propose to urge. I merely mean to give notice that if the Senator yields the floor again, for any purpose, I shall undertake to make the contention that he is not entitled to resume it.

Mr. JONES. Mr. President, I desire to ask the Senator from Missouri, in view of the fact that he has been giving notice for 5 or 10 minutes, whether any business has been done in the Senate in the last 5 or 10 minutes?

The PRESIDING OFFICER. As the Chair understands, the Senator from Missouri now seeks only to admonish the Senate and does not press his point of order. The Chair will recognize the Senator from Connecticut.

Mr. CLARK of Wyoming. The Senator from Missouri made his point of order.

Mr. STONE. I said I rose to a question of order; but if the Senator understands that that is equivalent to making a point of order, I withdraw it.

The PRESIDING OFFICER. The Chair understands that the Senator from Missouri has withdrawn the point of order.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from New Hampshire?

Mr. BRANDEGEE. Mr. President, after the dire threats with which the Senator from Missouri has filled the Chamber I should hate to do anything that would offend his sensibilities. Would it be parliamentary for me to yield courteously to the Senator from New Hampshire, or would I be then subject to being threatened with having yielded the floor?

The PRESIDING OFFICER. The Chair understands that the point of the Senator from Missouri was as to whether the Senator had yielded the floor.

Mr. BRANDEGEE. Further than that "deponent saith not." One has to be very cautious.

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from New Hampshire?

Mr. BRANDEGEE. For what purpose? I desire to know; I do not yield to anybody to suggest the absence of a quorum, because I have not done so to-day; I do not want it done, and I can not yield to any Senator unless I know whether or not it would offend the Senator from Missouri; but I yield to the Senator from New Hampshire for a question.

Mr. GALLINGER. Mr. President, I do not know that it is a question.

Mr. BRANDEGEE. Well, if it is not a point of order, I yield.

Mr. GALLINGER. It is not a point of order, it is not to call for a quorum.

The PRESIDING OFFICER. There is no point of order now before the Senate; the point of order has been withdrawn.

Mr. GALLINGER. Mr. President, I desire to take cognizance, in a very frank, open way, of the threat with which the Senator from Missouri [Mr. STONE] has regaled us to-day. He has told us that not only is he going to do something revolutionary in reference to the matter of calling for a quorum, but that other things are to be done.

Mr. President, some of us have not intended to speak on this bill, but the rules of this body will permit each of us to speak twice on each day, and the Senator from Missouri will not hasten the consideration or the conclusion of this bill by undertaking to intimidate Senators on this side of the Chamber, and he may as well abandon that idea one time as another. We will proceed under the rules of the Senate as we understand them, and we will take such time as we think proper under those rules to discuss these bills, and, if we are forced to do so, some of us will take time that we had not intended to take.

Mr. STONE. I have not threatened anybody.

Mr. GALLINGER. The Senator did threaten.

Mr. STONE. More than that, all I have said has been that I would invoke the ruling made by the Chair, which the Senator from New Hampshire approved.

Mr. GALLINGER. Very well; the Senator from New Hampshire is on record, and he does not wish to change the record he made.

Mr. STONE. He is on record.

Mr. GALLINGER. But the Senator from Missouri went beyond that, and informed us that at a later time certain other procedure would be taken if we did not desist from a certain line of conduct in the Senate.

Mr. STONE. I absolutely did nothing of the kind.

Mr. GALLINGER. The RECORD shows it.

Mr. STONE. The RECORD does not show it.

Mr. GALLINGER. The RECORD does show it.

Mr. CLARK of Wyoming. I rise to a point of order.

Mr. STONE. The Senator ought to state the facts; he ought not to make such a statement as that, because it is not true.

Mr. GALLINGER. The Senator is stating what is untrue now.

The PRESIDING OFFICER. The Senator from Wyoming will state his point of order.

Mr. CLARK of Wyoming. My point of order is that Senators are indulging in colloquies without addressing the Chair and without the consent of the Senator having the floor.

Mr. GALLINGER. I beg the Senator's pardon. I had the consent of the Senator who had the floor.

Mr. CLARK of Wyoming. I did not have reference to the Senator from New Hampshire.

Mr. GALLINGER. Very well. I have said all I care to say.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BRANDEGEE. Mr. President, I am sorry that in my desire to be courteous to my fellow Senator I have precipitated such unseemly——

Mr. CUMMINS. I rise to make a parliamentary inquiry. Is the Senator from Connecticut now making his first or his second speech on the pending question on this day?

The PRESIDING OFFICER. The Chair is unable to say. The Secretary may be able to inform the Chair. The Chair thinks, however, it is a continuous speech and has taken up a good part of the day.

Mr. CUMMINS. I think it worth while to have that question determined at this time, and I assume it can be determined by the RECORD.

The PRESIDING OFFICER. The RECORD will show that. The Chair thinks, however, we might safely leave to the honor

of the Senator himself the question whether this is his first or second speech.

Mr. CUMMINS. I will be very glad to have the question answered by the Senator from Connecticut.

Mr. BRANDEGEE. I should hardly dignify my poor remarks by calling them either a first or a second speech. I have proceeded with some interruptions in attempting to give my views upon different portions of this bill.

I will say, Mr. President, that I entirely disagree with the facts as stated by the Senator from Missouri. I think the true state of facts will be necessary in the determination of the point of order or the various points of order which he has suggested in his remarks. I have not yielded the floor since I obtained it. There is a great difference in parliamentary terms between a Senator yielding the floor and yielding to another Senator who asks if the Senator yields to him. When the Senator who has the floor is addressing the Senate and another Senator rises and says "Mr. President," and the Vice President says to the Senator having the floor, "Does the Senator having the floor yield to his colleague?" that is not a yielding of the floor such as to constitute a second speech when the Senator yielding resumes the floor to proceed with the discussion. I will say in passing that to those to whom I have yielded so far I have done so without the slightest notion of what they were going to do and without caring what they did or what they said. I did not know that they were going to suggest the absence of a quorum; I did not desire anybody to suggest the absence of a quorum. I am able to take care of myself, if I understand myself, and I know my rights; and when I get through talking, which will be very quickly, for I am conducting no filibuster or anything of the kind, if I am treated with ordinary senatorial courtesy and civility, I shall resume my seat in good order, I think.

I take this opportunity, however, of expressing my regret at the effect the hot weather has upon the dispositions of some of the Senators. If they are thrown into this spasm of irritability on the threshold of the consideration of the first of this interrelated series of misbranded antitrust bills, I rather hate to contemplate what will be the last stage of those persons along about the middle of September or October, when we get to the real consideration of the last emancipation proclamation.

Mr. President, as I was saying when I was interrupted the last time, everybody knows that there is no real call in the country for this Federal trade commission legislation. I do not think I err in the slightest when I say that. Most of the great newspapers of the country have been begging Congress for weeks to dry up and shut up and go home. They realize perfectly well, as well as the people of the country realize, that in this sizzling August weather, when it is hard enough to get the proper amount of sleep to be able to perform any sort of intellectual effort, Congress is fatigued and irritated and ugly and disgusted and apprehensive, and is in no frame of mind to consider this kind of legislation at all.

That is manifested here by a refusal even to read the bill. I know Senators have not read the bill, because I have talked with several of them, and it was perfectly evident that they did not know what was in it. They had no conception of it at all, and I had to pull it out and show it to them before they would believe that what I said about it was true. Having read the bill, those of them who take any sort of interest in it or realize that it is a question that their constituents have any right to demand that they should have some idea about before they gulp it down without any consideration, they are thrown into a condition of catalepsy, apparently, where they just throw up their hands and cease thinking and say, "Well, what can we do? What can we do? If we adjourn without passing all of this program which the President says he has—a legislative program, which is our business and not his—he may say that we have not supported his administration, and that will queer us in our own localities." When they are told, "Well, I should think you would take the chance of satisfying your constituents that it was unwise to pass this stuff, that part of it was not in response to the demand of your President and the other part which was inadvisable," they say, "Well, we would rather hang together than hang separately."

There is no meeting of the minds of the Senators here as to what these bills mean or as to the advisability of passing them. On the contrary, the Congress of the United States is caught here at pretty nearly the 1st of August with the demand of the country that they should adjourn and with the demand of the President that they shall not adjourn until they have gulped down an undigested mass of miserable, interfering, intermeddling, busybody, amalgamated stuff hastily concocted and ill-thought out and turn it loose upon the country; and the subserviency of Congress is such that they are apparently perfectly willing to do it.

I am not willing to do it. I do not care what the President's legislative program is. He has no business to have one. I am sick of this domineering and bulldozing, and I will not submit to it, so far as I am concerned. Other people can if they want to. I do not believe the President has any business to have a legislative program. His business, under the Constitution, is to advise Congress of the state of the Union; and he can make any recommendations he has a mind to make, respectfully, as to what he thinks personally as President ought to be done or what he thinks it would be a good thing to do.

He did it in Mexico. He had a perfect right to communicate to Congress what he would like to have Congress do in Mexico, and he sent over here a message and a joint resolution at the same time, all drawn, "O. K., W. W.," and the House passed it right off the reel, and it came over here. He said in his message that he was not doubtful about his constitutional authority to do whatever was necessary in Mexico and to enforce amends, as he said, for the insults and slights and indignities that had been heaped upon the American flag and the American uniform. He wanted authority in his resolution to use the whole military power of the United States, to order the Army and the Navy down there to enforce amends for an insult.

When the Senate presumed to inquire whether that was a proper expedition, and what the amends were to be, the advisability of passing the resolution against one Victoriano Huerta, which seemed to us to be dignifying the issue somewhat, and somewhat inconsistent with the preservation of the glory of the flag and the honor of the uniform, we were told that the President had already done what he said he was afraid to do without getting the authority of Congress, because the consequences might be so grave, referring to war. We were told that he had already done it, and Senators stood up here and said: "You must pass the resolution at once, because the lives of our boys are being taken down there. They are weltering in their blood. Therefore, pass the resolution."

Why, there was no use in passing the resolution. The President had already exercised an act of war in a foreign country with which we were at peace. He had assaulted the city of Vera Cruz, captured it, killed a lot of innocent Mexicans who stood over on the hills, who were not participating in the fracas, but were killed by our shells, and some of our people were killed in this marauding expedition to enforce amends.

For six weeks or two months 40 great battleships flying the American flag, with steam up, have been wallowing in the trough of the sea down off the coast of Vera Cruz, with the thermometer 120 in the shade, and the Army Corps has dug a ditch for itself around Vera Cruz and our soldiers are standing there in the mud—those of them that are not in the hospitals—sweltering under the tropical sun, directed by Congress to enforce amends for the insults that have been heaped upon our flag and uniform.

What are they doing there? Why are they not in Canada? Are they enforcing any amends? Why, as soon as that pretext had become a little shopworn we were told that we were never engaged in a war of revenge, but we were really there in a war of service—service to the Mexicans—the message having stated to us that we never would be authorized to participate in the internal affairs of any foreign country with which we were at peace. Well, what service are we performing to them now? It looks to the people of the country as though all we were doing was meddling in a foreign country and holding the throat of one dictator or bandit while another dictator or bandit rushed to occupy his place.

I am not criticizing the President for having his views about his business, but I do say that a President who will dragoon Congress into doing what the country is not demanding, what the business interests of the country are not demanding, but who holds us here because he is able to prevent his party from adjourning when it wants to adjourn, to pass something that the public prints said this morning he had expected, when he announced his wishes to Congress, would have been concluded by the middle of July, but which he now thinks can not be done until the middle of September, is exceeding his constitutional prerogatives or else the Congress are abandoning theirs—one of the two.

Mr. President, the spasm into which some of my friends in this Chamber have been thrown by the fact that I insist on reading to the Senate the bill that we are supposed to be debating is entirely unjustified, it seems to me, unless we are to be compelled to pass these bills without reading them. All of the Senators have not read this bill, and I think the country is entitled to know what is in it. A bill comes out here, reported

out of a committee, and when it is laid before the Senate somebody moves that the first formal reading of the bill be dispensed with and that the bill be read for committee amendments. Then proceeds a jumble of amendments, page after page of fine print, and then individual amendments, and never a copy of the bill is printed in the RECORD so that the people at home can take the proposed amendment and fit it into the bill and see what you are talking about. I thought it was not exceeding the senatorial proprieties or decencies or common sense to read the bill into the RECORD, so that the people may see it as a consecutive, coherent bill, and then compare it with the jumble of amendments that are offered to it afterwards. When it comes up, if it is necessary, by the offering of amendments to the other bills, that the Clayton bill shall be again read into the RECORD, if under the modified rules which may be in force at that time in the Senate guaranteeing the freedom of debate, I may be permitted to do it without being taken to task and called to order and an attempt being made to remove me from the floor, I shall have the audacity to do it; and I shall hope Senators will be able to retain their self-possession at least fully as well as they have on my first attempt.

That is all I have to say about this bill at this time; but in the future I shall have several remarks to make.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Nevada [Mr. NEWLANDS].

Mr. BRANDEGEE. Let the amendment be stated, Mr. President.

The PRESIDING OFFICER. The Secretary will state the amendment.

The SECRETARY. It is proposed to add, at end of section 5, the following *proviso*:

*Provided*, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Nevada.

Mr. SMOOT. Mr. President, if we are going to vote upon it, I think the Senator having the bill in charge should be present in the Chamber, and I suggest the absence of a quorum.

Mr. BRANDEGEE. Why, under the ruling of the Chair the Senator can not do that.

Mr. SMOOT. Oh, yes; I can.

Mr. BRANDEGEE. No business has been transacted since it has been ruled that the absence of a quorum could not be suggested.

Mr. SMOOT. Yes, Mr. President; the amendment——

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

| | | | |
|---|---|---|---|
| Ashurst | Gronna | Nelson | Simmons |
| Brady | Hollis | Newlands | Smith, Ariz. |
| Brandegee | Hughes | Norris | Smith, Md. |
| Bryan | Kenyon | O'Gorman | Smoot |
| Camden | Kern | Overman | Stone |
| Catron | Lane | Owen | Swanson |
| Chamberlain | Lea, Tenn. | Page | Thomas |
| Clapp | Lee, Md. | Perkins | Thornton |
| Clark, Wyo. | Lewis | Pittman | Tillman |
| Clarke, Ark. | Martin, Va. | Reed | Vardaman |
| Cummins | Martine, N. J. | Shafroth | Walsh |
| Gallinger | Myers | Sheppard | White |

The PRESIDING OFFICER. Forty-eight Senators have responded to their names. A quorum is not present. The Secretary will call the names of absent Senators.

The Secretary called the names of absent Senators, and Mr. SMITH of Georgia answered to his name when called.

Mr. BANKHEAD and Mr. SHIELDS entered the Chamber and answered to their names.

The PRESIDING OFFICER. Fifty-one Senators have answered to their names. A quorum is present. The question is on the amendment offered by the Senator from Nevada [Mr. NEWLANDS].

Mr. CLARK of Wyoming. Let the amendment be stated.

The PRESIDING OFFICER. The Secretary will again state the amendment.

The SECRETARY. It is proposed to add, at the end of section 5, the following:

*Provided*, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. CLARK of Wyoming. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHILTON (when his name was called). I have a general pair with the senior Senator from New Mexico [Mr. FALL]. In his absence, I withhold my vote.

Mr. GRONNA (when his name was called). I have a general pair with the senior Senator from Maine [Mr. JOHNSON]. I transfer that pair to my colleague [Mr. MCCUMBER] and will vote. I vote "nay."

Mr. KERN (when his name was called). I transfer my pair with the senior Senator from Ohio [Mr. BURTON] to the junior Senator from Louisiana [Mr. RANSDELL] and will vote. I vote "yea."

Mr. SAULSBURY (when his name was called). Has the junior Senator from Rhode Island [Mr. COLT] voted?

The PRESIDING OFFICER. He has not.

Mr. SAULSBURY. Having a pair with that Senator, I withhold my vote.

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT]. I have been informed that if he were here he would vote as I do on this amendment. I will therefore vote. I vote "nay."

Mr. TILLMAN (when his name was called). I transfer my pair with the Senator from West Virginia [Mr. GOFF] to my colleague [Mr. SMITH of South Carolina] and vote. I vote "yea."

Mr. WALSH (when his name was called). I have a general pair with the Senator from Rhode Island [Mr. LIPPITT]. I transfer that pair to the Senator from Kansas [Mr. THOMPSON] and vote "yea."

The roll call was concluded.

Mr. SMITH of Georgia. I have a general pair with the senior Senator from Massachusetts [Mr. LODGE]. I therefore refrain from voting.

Mr. MYERS. I transfer my pair with the Senator from Connecticut [Mr. MCLEAN] to the Senator from Georgia [Mr. WEST] and vote "yea."

Mr. CULBERSON. I have a general pair with the Senator from Delaware [Mr. DU PONT]. In his absence I withhold my vote.

Mr. HOLLIS (after having voted in the affirmative). Since voting I have renewed my pair with the junior Senator from Maine [Mr. BURLEIGH]. I therefore withdraw my vote.

Mr. CHAMBERLAIN. I transfer my pair with the Senator from Pennsylvania [Mr. OLIVER] to the Senator from Nebraska [Mr. HITCHCOCK] and vote "yea."

Mr. SMITH of Maryland. I have a pair with the senior Senator from Vermont [Mr. DILLINGHAM], and for the present will withhold my vote.

Mr. SAULSBURY. I transfer my pair with the junior Senator from Rhode Island [Mr. COLT] to the senior Senator from Indiana [Mr. SHIVELY] and vote "yea."

Mr. LEA of Tennessee (after having voted in the affirmative). Has the Senator from South Dakota [Mr. CRAWFORD] voted?

The PRESIDING OFFICER. He has not.

Mr. LEA of Tennessee. I have a general pair with that Senator, and therefore withdraw my vote.

Mr. CHILTON. Under the terms of my pair with the Senator from New Mexico [Mr. FALL], which I have mentioned, I think I have a right to vote. I vote "yea."

The result was announced—yeas 40, nays 13, as follows:

YEAS—40.

| | | | |
|---|---|---|---|
| Ashurst | Jones | Newlands | Shafroth |
| Bankhead | Kenyon | Norris | Sheppard |
| Brady | Kern | O'Gorman | Simmons |
| Bristow | Lane | Overman | Smith, Ariz. |
| Camden | Lee, Md. | Owen | Stone |
| Chamberlain | Lewis | Page | Swanson |
| Chilton | Martin, Va. | Perkins | Thornton |
| Clapp | Martine, N. J. | Pittman | Tillman |
| Cummins | Myers | Pomerene | Walsh |
| Hughes | Nelson | Saulsbury | White |

NAYS—13.

| | | | |
|---|---|---|---|
| Brandegee | Clarke, Ark. | Shields | Vardaman |
| Bryan | Gallinger | Smoot | |
| Catron | Gronna | Sutherland | |
| Clark, Wyo. | Reed | Thomas | |

NOT VOTING—43.

| | | | |
|---|---|---|---|
| Borah | Gore | Oliver | Smith, S. C. |
| Burleigh | Hitchcock | Penrose | Stephenson |
| Burton | Hollis | Poindexter | Sterling |
| Colt | James | Ransdell | Thompson |
| Crawford | Johnson | Robinson | Townsend |
| Culberson | La Follette | Root | Warren |
| Dillingham | Lea, Tenn. | Sherman | Weeks |
| du Pont | Lippitt | Shively | West |
| Fall | Lodge | Smith, Ga. | Williams |
| Fletcher | McCumber | Smith, Md. | Works |
| Goff | McLean | Smith, Mich. | |

So Mr. NEWLANDS's amendment to section 5 was agreed to.

DEFICIENCY APPROPRIATIONS.

Mr. MARTIN of Virginia submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate numbered 158 to the bill (H. R. 17824) making appropriations to supply deficiencies in appropriations for the fiscal year 1914 and for prior years, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"To pay the amounts ascertained and certified by the accounting officers of the Treasury during the fiscal year 1915, to be due under existing laws and pursuant to the provisions of the act to repeal section 3480 of the Revised Statutes of the United States, approved July 6, 1914, $175,000, or so much thereof as may be necessary: *Provided*, That no agent or attorney shall demand or accept for his services in connection with the prosecution or collection of claims hereunder any sum in excess of 10 per cent of the amount allowed by the accounting officers of the Treasury to any claimant under the said act of July 6, 1914. Any person violating this provision shall, upon conviction, be punished by a fine not exceeding $500 or imprisonment for a period not exceeding six months, or both, and shall be disbarred from practice before the Treasury Department."

And the Senate agree to the same.

THOMAS S. MARTIN,
N. P. BRYAN,
J. H. GALLINGER,
*Managers on the part of the Senate.*
JOHN J. FITZGERALD,
T. U. SISSON,
*Managers on the part of the House.*

The report was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 12579) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1915, recedes from its disagreement to the amendment of the Senate No. 23, and agrees to the same with an amendment, in which it requests the concurrence of the Senate; further insists upon its disagreement to the amendments of the Senate Nos. 37, 81, 139, and 155; agrees to the further conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. STEPHENS of Texas, Mr. CARTER, and Mr. BURKE of South Dakota managers at the conference on the part of the House.

INTERNATIONAL CONFERENCE ON SOCIAL INSURANCE (H. DOC. NO. 1132).

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed.

*To the Senate and House of Representatives:*

In view of the provision of law contained in the deficiency act approved March 4, 1913, that "Hereafter the Executive shall not extend or accept any invitation to participate in any international congress, conference, or like event without first having specific authority of law," I transmit herewith for the consideration of the Congress and for its determination whether it will authorize the acceptance of the invitation a report from the Secretary of State, with accompanying papers, being an invitation from the Government of the French Republic to that of the United States to send delegates to the International Conference on Social Insurance, to be held at Paris in September, 1914, and a letter from the Department of Labor showing the favor with which that department views the proposed gathering.

It will be observed that the acceptance of this invitation involves no special appropriation of money by the Government.

WOODROW WILSON.

THE WHITE HOUSE, *July 27, 1914.*

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. SUTHERLAND. Mr. President, the pending bill, I think, may be mildly described as revolutionary in character. The fact, however, standing alone, that the bill may be revolutionary in character is no reason why it should not be passed if it be a wise and necessary measure.

An examination of the bill will demonstrate that the power which has been conferred or attempted to be conferred upon this trade commission is simply immeasurable in extent. I am aware of the fact that the Senator from Nevada [Mr. NEWLANDS] takes a cheerful, optimistic view of the matter and insists that in all probability the power which is conferred will not be exercised. Mr. President, we ought not to confer a power which is unwise upon the mere faith that it will not be exercised by the people upon whom it is conferred.

This trade commission, if it is created, will be given jurisdiction in one form and another over anywhere from 300,000 to 500,000 corporations, because it is given jurisdiction over all corporations which may be engaged in or—as I shall show later on by a provision of the act, whatever it may mean—"affecting" interstate commerce. Of course, nearly every trading corporation, manufacturing corporation, and business corporation in the country is to a greater or less extent engaged in interstate commerce. If a corporation in the course of a year should transact a single item of business in interstate commerce it would seem that it would be brought within the operation of this proposed law.

If this interstate trade commission shall exercise its powers to the full the expense which will be laid upon the Government of the United States can not be measured in dollars and cents. It will amount to a sum so large as to be appalling. To exercise this control and jurisdiction over all these corporations will entail the employment of a perfect army of agents. It was estimated during the hearings that it would require upon a very conservative estimate some thousands of employees, and the expense would run up into many millions of dollars.

The powers conferred upon this trade commission are very broad and far-reaching. The commission is to be constituted a sort of general residuary legatee of all interstate-commerce activities which are not now under the control of some other body. Rather it is constituted a general smelling society of all the acts of the corporations of the United States which may be engaged in interstate commerce that are not under the control of the Interstate Commerce Commission. It is to be, in addition to that, a general publicity bureau. It is to go smelling about the country, finding out the domestic affairs of the various corporations, and it is not restricted by the bill to finding out simply matters which concern interstate commerce. It may investigate its books; it may ascertain its business secrets; it may ascertain every act that it is engaged in performing, whether it has relation to interstate commerce or not, upon the hypothesis that in some remote way it may relate to interstate commerce. Then it is to be constituted a publicity bureau in its discretion to publish broadcast throughout the land all or so many of these facts as it may choose to publish.

In addition to that, it is to be constituted a sort of father confessor to the business men of the country who may be required under another provision of this extraordinary bill to make a report annually upon such matters and in such form as the commission may require. Not content with conferring upon the commission these multiform activities, it is also to be constituted a master in chancery to which certain cases may be referred by the court.

In addition to that, it is to be a general assistant, an all-around assistant, to everybody in the investigation and prosecution of corporations which may be engaged in interstate commerce, to advise the Attorney General when he shall act, to find out whether the orders and decrees of the courts are being carried out, and if not, to call attention to the fact and see that proceedings are taken to the end that they may be properly carried out. So it will be seen that the sponsors for this bill have put upon the interstate trade commission a pretty ambitious program of duties.

Now, Mr. President, all of that would not be sufficient to prevent our adopting a bill if it be expedient and wise, but it is necessary that we should go further and show that there are really specific objections to the powers which have been attempted to be conferred, and that in a very brief way I shall attempt to do.

I may say in the beginning that I have no intention of discussing this bill for the mere sake of occupying time. I am going to discuss it because I believe it to be a dangerous measure, and in many respects an unjust measure, and a measure which we ought not to pass.

Having stated to the Senate my views upon the matter I am content, of course, that it shall be voted upon at as early a date as the business of the Senate will permit.

I first of all call attention to section 3, which is the first of the substantive sections of the bill. The introductory clause of section 3 provides that—

The commission shall have power, among others—

Subdivision (a) of the section reads:

(a) To investigate from time to time, and as often as the commission may deem advisable, the organization, business, financial condition, conduct, practices, and management of any corporation engaged in commerce and its relation to other corporations and to individuals, associations, and partnerships.

Now, let me analyze and dissect that for a moment. It is to be given power not only in its discretion, without any general legislative standard or rule to control its action, but wholly in its own unrestricted discretion, as often as it may deem advisable, to investigate, of course in any way it pleases, not only the organization, business, and financial condition of a corporation engaged in interstate commerce but also its conduct and practices. There is no limitation upon the character of the conduct and practices which it may investigate. The conduct and practices may relate to interstate commerce, they may relate to intrastate commerce, or they may relate to neither.

In addition to that, it is given the power to investigate the relation of the corporation which is itself engaged in interstate commerce with any other corporation and with individual associations and partnerships. Again, whether those relations have any sort of connection with interstate commerce or not. In other words, it is given a roving commission to investigate all the affairs of all the corporations of the country which may be engaged in interstate commerce; and that is the sole and only test of its jurisdiction, namely, to inquire whether or not a particular corporation is engaged in interstate commerce; and if it is, then the power is given to investigate all of its multiform and multifold activities, whether they relate to interstate commerce or not.

Now, I undertake to say, Mr. President, that that is a power which Congress can not devolve upon a commission; it is a power which Congress can not itself exercise; and, after all, that is the primary test of the power which we may devolve upon a commission—whether the Congress itself may exercise the power. If it can not, it is a power which can not be devolved upon a legislative commission. We have by this provision undertaken to give to this commission a general power of visitation over all that class of State corporations which may be engaged in interstate commerce. That is a power which does not belong to the Federal Government, but is a power which belongs only to the sovereignty which creates the corporation, namely, the State. If this is not an attempt to confer visitorial powers upon this commission, then I must confess that I have no conception as to what that term means.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER (Mr. MARTINE of New Jersey in the chair). Does the Senator from Utah yield to the Senator from Ohio?

Mr. SUTHERLAND. I yield, if the Senator from Ohio desires to ask me a question.

Mr. POMERENE. I merely wish to ask a question. If I understand the Senator from Utah correctly, he objects to inquisitorial powers being conferred upon the commission as being unconstitutional in part?

Mr. SUTHERLAND. Yes.

Mr. POMERENE. My question is, Wherein are the powers conferred upon this commission in that behalf different from those now enjoyed by the Bureau of Corporations?

Mr. SUTHERLAND. Oh, Mr. President, that will not settle the difficulty. I think the powers conferred upon the Bureau of Corporations are entirely beyond the authority of Congress. The truth about it is—I have not made a very careful comparison, but so far as my general reading goes—the powers conferred upon this commission are pretty much the same as those which we have heretofore attempted to confer upon the Bureau of Corporations; but, as the Senator from Nevada [Mr. NEWLANDS] replied to me the other day when I put the question to him, the Bureau of Corporations has never undertaken to exercise its powers in any compulsory way. Of course, unless some case shall come up that can go to the courts, there is no way of determining whether or not the act creating the Bureau of Corporations and conferring power upon that organization is valid. So long as the Bureau of Corporations simply proceeds without antagonizing anybody, there is no opportunity of testing its powers; but I would make exactly the same criticism of the powers conferred upon the Bureau of Corporations that I make of the powers conferred upon the proposed trade commission.

Mr. NELSON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Minnesota?

Mr. SUTHERLAND. I yield to the Senator.

Mr. NELSON. I want to say to the Senator from Utah that the only instance in which the Bureau of Corporations attempted to investigate a corporation was in the case of the Beef Trust. The result of that whole examination was to give them immunity. Judge Carpenter decided that because they had been called to give testimony about the operations of the Beef Trust therefore they were entitled to immunity.

Mr. BRANDEGEE and Mr. POMERENE addressed the Chair.

The PRESIDING OFFICER (Mr. WALSH in the chair). To whom does the Senator from Utah yield?

Mr. SUTHERLAND. I yield to the Senator from Connecticut.

Mr. BRANDEGEE. I merely wish to offer an amendment to the pending bill and to have it printed. The amendment is, on pages 20 and 21, to strike out section 5.

The PRESIDING OFFICER. The amendment will be printed and lie on the table.

Mr. SUTHERLAND. I will yield now to the Senator from Ohio if he desires to interrogate me, but not for a controversy between himself and the Senator from Minnesota [Mr. NELSON].

Mr. POMERENE. My question was going to address itself rather to the Senator from Minnesota, but I will not now ask to interrupt the Senator from Utah for that purpose.

Mr. SUTHERLAND. I will ask the Senator from Ohio not to do so at this time.

Mr. President, I lay down the proposition that Congress has no more authority to regulate a corporation organized under the laws of a State because the corporation is engaged in interstate commerce than it has to regulate an individual who lives in a State because he happens to be engaged in interstate commerce. I know that there is a vague, popular notion that Congress has some greater authority over a corporation than it has over an individual, but I undertake to say that nothing in any of the law books can be found which will justify such a notion. Congress has precisely the same power—no more and no less—to regulate a corporation engaged in interstate commerce than it has to regulate a partnership, an association, or an individual who may be engaged in interstate commerce.

If this bill had been aimed at individuals, I venture to say that there are many of its provisions that would not have met with the assent of a good many Members of the Senate who will probably vote for the bill in its present form.

Upon that question, because it is stated so very succinctly, I desire to call attention to a statement or two made by Mr. Thomas C. Spelling, a very eminent legal author, a man very thoroughly familiar with this subject. The first statement that I call attention to is in a recent publication of his entitled "Political deceptions and delusions," in which he has taken up some of these proposed measures for discussion. He says:

The Federal Government can not regulate anything when not being used in interstate commerce, nor any person or corporation merely because engaging in interstate commerce. In requiring, for instance, that all trains carrying interstate freight or passengers shall be equipped with air brakes and safety couplers, Congress is not as a specific object regulating these devices nor even the trains, nor yet the corporate carriers. True, the statutes provide for the prosecution and punishment as for a misdemeanor the carriers who do not comply with the law, but that is the vindicatory part of the act. The subject matter of the regulation is the transportation—the interstate commerce. No more are they, the corporations, thereby regulated than are liquor dealers when required to take out a license by a State law.

In that case, I may interpolate, the thing which the State regulates is the business; and its jurisdiction over the business of selling liquor does not give it the right to regulate the person who engages in the selling of liquor. In the same way our power to regulate an interstate transaction does not give us any right to regulate the persons who may be engaged in interstate-commerce transactions. The writer proceeds:

Such a law is the regulation of the liquor traffic; and every person who goes into that business thereafter must, as a condition precedent, obtain a license, whether such a person be white or black, native or foreign born, engaged in the liquor business or in some other occupation. Safety appliances, carriers, and corporations are necessarily mentioned in interstate-commerce regulations just as are shippers of all classes and the articles shipped.

Now, I call particular attention to this:

But the mere fact that railroad companies are constantly carrying merchandise and passengers and are therefore continuously under the immediate operation of the laws does not give the Federal Government any control over them as corporations or their property, nor any over the private affairs of a shipper, except such of his affairs as are involved in the transportation of his property in interstate commerce.

Again, at page 261, he says:

Therefore any act of Congress which is not a regulation—that is to say, a regulation of that commerce which is interstate—is not a regu-

lation at all, but an interference with private affairs, which are either constitutionally protected by express language or exclusively under State control by implication, and therefore exempt.

And on the succeeding page he says:

Commerce, in any such sense as to call for congressional regulation, can not come into existence without an exercise of the will power of man, nor does any such thing exist in the absence of action and movement of men or of agencies set in motion by them. For purposes of congressional regulation the sphere of interstate commerce without transportation or transmission, either actual or contemplated, may be compared to a vacuum. There is no actual or operative interstate commerce until transportation has begun.

And he cites a number of decisions of the Supreme Court of the United States in support of that proposition.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Iowa?

Mr. SUTHERLAND. I do.

Mr. CUMMINS. I do not rise to ask a question so much as to make a suggestion. I hope the Senator from Utah, before he has finished, will show how the workman's compensation bill, of which he was more the author than any other person, the constitutionality of which is not seriously doubted, is brought within the principles he has just been reading from Mr. Spelling. I do that because I am sure that when he shows that the regulation contemplated in that bill is made to conform to these principles or is sustained by these principles, he will at the same time show how the regulation proposed in this bill is brought within them.

Mr. SUTHERLAND. Well, Mr. President, the answer, to my own mind, is a very simple one. That bill was constitutional upon exactly the same ground that the employers' liability law was constitutional.

Mr. CUMMINS. I agree to that.

Mr. SUTHERLAND. By the employers' liability law we undertook to say that railroad corporations engaged in interstate commerce shall be liable to their employees injured while such employees are also engaged in interstate commerce; they must both at the time of the injury be engaged in an interstate-commerce transaction; and the theory upon which both those laws can be supported is that by compelling the employer to be responsible, either under the enlarged common-law provisions of the employers' liability law or under the liability of the compensation laws the effect is to add to the safety and to the facility of interstate business. For example—and there are other illustrations, and they are all given in the report which I had the honor of presenting to the Senate upon the subject—for example, the employee while engaged in dangerous work is certain that if he be injured his family is not going to suffer unduly, but that they are going to receive compensation, and the theory of that is, or, at least, one of the theories is, that that will contribute to his peace of mind and will enable him to discharge his duties with greater facility than he otherwise would be able to do, and that in that way, and in other ways which I could illustrate if I were inclined to take the time, it contributes to the safety of the movement of things in interstate transportation. The Supreme Court held, however, in the first employers' liability case that the law then passed was unconstitutional because it undertook to impose a liability upon the carrier for an injury to an employee on the sole ground that the employer was engaged in interstate business, and they said that that would make the employer liable not only when an injury occurred to an employee when he was also engaged in interstate business but when an employee was engaged in intrastate commerce as well; and the court said one was within the power of Congress and the other was entirely without the power of Congress. So that the illustration to which the Senator from Iowa directs my attention, to my own mind, presents a very strong illustration against the position assumed by this bill and not in its favor. For example, I said, and I repeat, that the power of Congress is the same over corporations as it is over individuals. Have we any power to regulate the intrastate activities of a person who is a passenger or is about to become a passenger in interstate traffic simply because he is that sort of a passenger? When he is moving from one State to another we have a right within limits to regulate his activities, in so far as they have relation to his movements from one State to another, but the fact that he is a person traveling from one State to another or transporting his goods from one State to another does not give us any authority to interfere with him in any other activities. The power, therefore, is to regulate commerce and not the persons who may simply be engaged in commerce.

The difficulty with the subdivision (a), to which I have called attention, is that it confuses and unites in this one section the power on the part of the trade commission to regulate the activities of corporations engaged in interstate commerce without limiting the power to those activities which relate to interstate commerce. Of course, it gives them the power to investigate those things which relate to interstate commerce, but it does more; it gives them, in addition, the other power, and by combining the two the Supreme Court, if it follows the decision in the employers' liability case and in many other cases, the early trade-mark cases, and others, will, it seems to me, undoubtedly hold that this provision is utterly unconstitutional.

The trade commission are to be given the authority to investigate the conduct and practices of corporations engaged in interstate commerce, their relations with other corporations, and their relations with individuals, associations, and partnerships; in fact, any sort of relation, as I have said, whether they have any reference to interstate commerce or, indeed, whether they have any reference to commerce at all. I call attention upon both propositions to the decision of the Supreme Court in the case of Adair *v.* United States (208 U. S., 161). That was a case where Congress had undertaken to provide, among other things, that it should be an offense to discriminate against an employee on the ground that he was a member of a labor union. The Supreme Court held that that was utterly unconstitutional; that because we had the right to regulate the interstate activities of a corporation of that kind it gave us no right to regulate the employment of men who were to be engaged in both kinds of business, and that that was entirely outside of our power.

Mr. NEWLANDS. What case was that?

Mr. SUTHERLAND. The case of Adair against United States, Two hundred and eighth United States, page 161. I also direct attention to one of the trade-mark cases in One hundredth United States, at page 82, and to the employers' liability case, Two hundred and seventh United States, at page 463, and from that case I think I will read a brief extract:

Now, the rule which the statute establishes for the purpose of determining whether all the subjects to which it relates are to be controlled by its provisions is that anyone who conducts such business be a "common carrier engaged in trade or commerce in the District of Columbia, or in any Territory of the United States, or between the several States"—

And so forth. Now, listen:

That is, the subjects stated all come within the statute when the individual or corporation is a common carrier who engages in trade or commerce between the States, etc. From this it follows that the statute deals with all the concerns of the individuals or corporations to which it relates if they engage as common carriers in trade or commerce as between the States, etc., and does not confine itself to the interstate-commerce business which may be done by such persons.

In other words, the statute was in such broad terms that it included the activities of the employee in interstate commerce and intrastate commerce as well.

The court says:

Stated in another form, the statute is addressed to the individuals or corporations who are engaged in interstate commerce and is not confined *solely*—

Now, I emphasize that word—

is not confined *solely* to regulating the interstate-commerce business which such persons may do—that is, it regulates the persons because they engage in interstate commerce and does not alone regulate the business of interstate commerce.

As it seems to me, that is one vice of this provision—that it does not relate alone to interstate business, but relates to the corporation engaged in interstate business, and gives the commission power to investigate all its activities, its conduct, its practices, its relations to other corporations and individuals, whether those activities themselves have any relation to interstate commerce or not.

Mr. LEWIS. Mr. President, may I be permitted to ask the able Senator a question, the answer to which would interest me as a lawyer?

Mr. SUTHERLAND. Certainly.

Mr. LEWIS. I call the Senator's attention to the fact that the argument he is now making was made, with no more ability but with equal fullness, before the Supreme Court of the United States in what are known as the corporation-tax cases, where the argument was presented that the corporations which were taxed were corporations of the State of Illinois—and, as the Senator remembers, others intervened—having no interstate relation whatever, many of them being only corporations within the State, having their charters from the State, doing their business wholly within the State. The Supreme Court of the United States, considering the case in One hundredth United States, referred to by the able Senator, and the other cases cited, reached this conclusion, which is not at all in accord with my fundamental ideas of government, but it is the law for us—that wherever the subject matter connected with, or apparently connected with, or reasonably could connect with interstate affairs in the general discharge of the duties, that was sufficient. It was not essential that it should absolutely con-

nect with such affairs or that it should be absolutely interstate. It was enough that the subject matter was of a kind that could operate in connection with interstate commerce.

Does the able Senator recall those decisions?

Mr. SUTHERLAND. No; I do not. I have not in mind the decision to which the Senator refers. He said these were tax cases.

Mr. LEWIS. Yes; they were tax cases, brought under the corporation-tax law passed by Congress.

Mr. SUTHERLAND. The taxing power has no such limitations as to the power to regulate commerce. There are other limitations so far as the taxing power is concerned, but the fact that a corporation is engaged only in State business does not prevent its being taxed by the Federal Government. The matter must be tested by some other consideration than that.

Mr. LEWIS. The Senator does not think that would turn on the question of whether or not the corporation was engaged in interstate commerce?

Mr. SUTHERLAND. Oh, not at all. We have imposed a corporation tax upon all corporations falling within certain terms. I have forgotten the exact language.

Mr. LEWIS. That is the law to which I am now alluding.

Mr. SUTHERLAND. There is no doubt about the validity of such a law, because it is under the taxing power; and we are not limited to interstate corporations in exercising the taxing power.

Mr. SHIELDS. Mr. President, the question referred to by the Senator from Illinois just now has been before the courts, though not in a taxing case, but in a case involving the Sherman antitrust law. I call his attention to the Knight case, the Sugar Trust case——

Mr. SUTHERLAND. Yes; I remember that case very well.

Mr. SHIELDS. In which just the contrary of that which is suggested by the Senator from Illinois was held.

Mr. SUTHERLAND. Yes.

Mr. SHIELDS. And also the copper company cases—the Calumet and Hecla cases, I believe—in the United States Circuit Court for the Sixth Circuit, the opinion being delivered by Mr. Justice Lurton, where there were interlocking directorates and interchanging stockholders. In those cases it was attempted to hold the alleged combinations void under the Sherman law, on the possibility that they might engage in interstate trade, but the court held that they did not violate that law.

Mr. SUTHERLAND. Yes; the court in the Knight case very clearly distinguished between the power to regulate intrastate matters and interstate matters.

In the Knight case, as I recall, it was held that, although it was made perfectly apparent that there was a conspiracy and a combination to monopolize the manufacture of sugar within certain States, so long as they did not go beyond the manufacture, that was wholly an intrastate matter; that it was only when the manufactured article was set in motion from one State to another that the power of Congress attached.

Mr. SHIELDS. The point I desired to call attention to was that the mere possibility that the business of the corporation might become interstate will not bring it within the Sherman law or under the jurisdiction of any law passed by the Congress of the United States.

Mr. SUTHERLAND. Yes.

Mr. LEWIS. Mr. President, I desire, if I may be pardoned, to call the attention of both Senators to the fact that the Knight case has been practically distinguished out of existence, so far as concerns being at variance with the views expressed by me. I must insist that the Supreme Court of the United States has done this in the Westinghouse case, where the exact question was raised, where the electrical appliances were charged to be the direct product of a single State, and likewise in the two greater cases known as the Tobacco and the Standard Oil Co. cases. My inclination is to assume that the Knight case is practically distinguished in such a way that it can no longer be regarded as authority.

Mr. SUTHERLAND. I think myself that the Knight case was improperly decided, but I do not quarrel with the rule of law which the court laid down. I think, if I read the record correctly, that in that case there was shown a monopolization of interstate commerce, or an attempt to monopolize interstate commerce. So far as the decision of the court is concerned, however—that it is not within the power of Congress to deal with manufacture in a State because ultimately the manufactured article may enter into the channels of interstate trade—I think the decision is perfectly sound.

Mr. CUMMINS. Mr. President, it is that position which, I think, constitutes the entire ruling in the Knight case.

Mr. SUTHERLAND. It does.

Mr. CUMMINS. If it is sound, practically every decision rendered by the Supreme Court since that time is unsound. The Supreme Court held in the Knight case that a manufacturer in Pennsylvania, having monopolized the refining of sugar, was not within the antitrust law because that sugar, when refined, would pass into channels of interstate trade; that it did not violate the antitrust law, because the transportation of the sugar was not so directly connected with the monopolization of its manufacture as to bring it within the law. I understand that the Knight case has not only been distinguished, but that for 15 years and more the Supreme Court has utterly refused to apply its doctrine to the cases it has had under consideration.

Really, however, I did not rise to say that. I rose to express my assent to a part of the argument which the Senator from Utah is making. I think the power that we confer upon the commission must relate to or affect interstate commerce. I agree that it is not and can not be a regulation of the individual or of the corporation as distinguished from the interstate business which the individual or the corporation is carrying on. I did not want anyone to assume because I am for the bill that I dissent from that very sound and obviously well-established doctrine.

Mr. NEWLANDS. Mr. President, will the Senator from Utah yield to me?

Mr. SUTHERLAND. I yield to the Senator.

Mr. NEWLANDS. I will ask the Senator from Iowa——

Mr. SUTHERLAND. Mr. President, I will not yield for any such purpose. If the Senator desires to ask me anything I will yield, but I will not yield for a colloquy between the Senator from Nevada and the Senator from Iowa.

The PRESIDING OFFICER (Mr. WALSH in the chair). The Senator declines to yield.

Mr. NEWLANDS. Then I will ask the Senator from Utah a question. Assuming that his position is correct, that the investigation must be with reference to the subject matter of interstate commerce and not simply with reference to a person, natural or artificial, I will ask the Senator whether it is not a fact that this investigation may extend to matters relating to purely State commerce, where the matters of interstate and of State commerce are so mingled as to make it impossible to separate the one from the other, and whether the Supreme Court has not practically decided that question?

Mr. SUTHERLAND. I do not care whether the Supreme Court has decided it or not. I am very glad the Senator has asked me that question, because it enables me to state a distinction which otherwise I might have overlooked.

I answer the Senator's question, categorically, "Yes." The fact that in the investigation of interstate activities it is necessary to disclose intrastate matters, that intrastate matters are inextricably interwoven with the interstate matters, will not prevent the commission from investigating; but that is a very different thing from conferring upon the commission in terms the power to investigate both matters or to investigate all conduct of interstate corporations simply because they are engaged in interstate commerce.

I do not know whether I make myself clear or not, but I will put it in a little different form.

If we have the power to create the commission and the power to authorize it to investigate at all, we have the power to authorize it to investigate the conduct and the practices and the relations of interstate corporations in so far as those activities and relations may themselves relate to interstate commerce. Now, that is our legislative power; but in carrying the law into operation the commission itself may incidentally go outside of that power, because it is impossible to investigate the one without to some extent investigating the other. As I say, however, that is a very different thing from conferring such authority in terms of legislation.

Mr. CUMMINS. Mr. President, the Senator from Utah will notice that in paragraph (b) there is such a limitation.

Mr. SUTHERLAND. I was coming to paragraph (b) in another connection later along. I am simply criticizing this bill as it reads. I have no doubt that some amendments will be made to it hereafter that may improve it, although I do not believe it can be improved sufficiently to warrant me in voting for it.

I call attention, in that connection, to section 4, which reads:

> The powers and jurisdiction herein conferred upon the commission shall extend over all trade associations, corporate combinations, and corporations as hereinbefore defined engaged in—

Now, notice—

> engaged in or affecting commerce, except banks and common carriers.

Just what is meant by that I must leave those who prepared the bill to explain; but, as though the language of subdivision (a) of section 3 were not sufficiently broad to read

it out of the authority of Congress, section 4 has been added which gives it jurisdiction over all corporations and combinations and trade associations, not only upon the ground that they are engaged in interstate commerce, but on the ground that they "affect" interstate commerce. Since they use both expressions—"engaged in" and "affecting"—they must have intended that those two expressions are to have different or cumulative meanings. If the corporations are engaged in interstate commerce, they fall within the jurisdiction of the commission; or, not being engaged in interstate commerce, if they are affecting interstate commerce, still they fall within the jurisdiction of the commission.

I suppose some corporation might be doing a business which would affect interstate commerce, although itself never doing a single transaction in interstate commerce. Some person who manufactures a particular article and sells his entire output to a wholly independent trading company in the same State would be affecting interstate commerce, although he would not be engaged in interstate commerce; but under the terms of this bill even such a manufacturer is to fall within the terms of the law and be subject to the power of the commission.

Mr. CUMMINS and Mr. POMERENE addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Utah yield, and to whom?

Mr. SUTHERLAND. I yield first to the Senator from Iowa.

Mr. CUMMINS. The Senator from Utah will remember that the Supreme Court of the United States has decided that exact thing—that any act of a State authority that is inseparably connected with or affects interstate commerce is within the jurisdiction of the United States under the power to regulate commerce.

Mr. SUTHERLAND. That would be a very different thing from the case I am supposing. The legislation of a State which affects interstate commerce affects a subject that is within the jurisdiction of Congress. Here, however, is jurisdiction given to a commission to deal with a corporation which is itself not engaged in interstate commerce, will never be engaged in interstate commerce, will never have a single, solitary transaction in interstate commerce, if it is doing anything which affects interstate commerce, however indirectly and however remotely.

Mr. CUMMINS. Precisely; but the Senator from Utah will remember that the antitrust law is founded on that very proposition—that any person who restrains trade or commerce—it makes no difference whether he is engaged in commerce or not—if he restrains commerce—that is, affects it in that way—he falls within the jurisdiction of the Federal authority, and it is within our power to prevent the restraint in the way of a regulation of commerce.

Mr. SUTHERLAND. Mr. President, I hope the Senator from Iowa will see the distinction between an act in restraint of interstate commerce and an act which merely affects interstate commerce, however remotely. It may affect it beneficially. It may affect it in the sense that the subsequent transactions in interstate commerce could not be had unless the article were manufactured. It affects it in that way, but take, for example, a policy of insurance issued by a State insurance company. It may affect interstate commerce, yet the Supreme Court has held repeatedly that the company issuing the insurance policy, or the policy itself, was not within the jurisdiction of Congress merely because it affects commerce.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Ohio?

Mr. SUTHERLAND. I do.

Mr. POMERENE. I do not have in mind the exact phraseology of the statute or of the decision of the Supreme Court, but it seems to me that we can get some light by analogy, at least, from the safety device decision of the Supreme Court rendered about a year ago. In that case it was held that in cars which were used wholly in intrastate commerce, if they were connected with a train that had cars on it which were used in interstate commerce, it was so affecting interstate commerce as to permit the Federal Government to have jurisdiction.

Mr. SUTHERLAND. Mr. President, I have not attempted to say, and I would not argue, that because the activities of a company or an individual affected interstate commerce that took it out of the power of Congress to deal with. I am saying that simply because it does affect commerce that does not of itself give Congress jurisdiction.

Mr. POMERENE. I said as a general proposition.

Mr. SUTHERLAND. But it does not give it, necessarily. A farmer is engaged in raising wheat in North Dakota. He raises an immense quantity of wheat. That affects ultimately interstate commerce, ultimately it will go into interstate commerce; but nobody would pretend that Congress has any jurisdiction over that farmer. Yet, if this language is to be literally construed, it will give us jurisdiction over a corporation of farmers, at any rate, if there be such a thing.

The next subdivision of section 3 of the bill is subdivision (b), and that reads as follows:

(b) To require any corporation subject to the provisions of this act which the commission may designate to furnish to the commission from time to time information, statements, and records concerning its organization, business, financial condition, conduct, practices, management, and relation to other corporations, or to individuals, associations, or partnerships, and to require the production for examination of all books, documents, correspondence, contracts, memoranda, or other papers relating to or in any way affecting the commerce in which such corporation under inquiry is engaged—

I stop at that point to say that the Senator from Iowa called my attention to the fact that in this subdivision, the limitation of which I complained was not to be found in subdivision (a), is to be found here, and I have read it down to that point. The provision is, "or in any way affecting commerce in which such corporation under inquiry is engaged," but it goes on—

or concerning its relations to any individual, association, or partnership, and to make copies of the same.

So far as its relations to any individual or association or partnership is concerned, they need not have the remotest relation to interstate commerce, yet the commission are given the power to investigate. This power is broadly conferred. There is not any paper or any number of papers of any corporations that this commission in the exercise of its arbitrary power desires to have before it for inspection that it can not compel to be brought. It has the power to go into the private affairs of every corporation, into its most detailed business affairs, and examine them.

Mr. President, my complaint about that is that it is in utter violation of the fourth amendment to the Constitution against unlawful searches and seizures. Let me read the provision of the Constitution. It will be found in the Manual at page 223:

The right of the people to be secure in their persons, and houses—

Now, listen—not only in their persons and houses, but in their—

papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

I call attention to a decision in the Thirty-second Federal Reporter in the matter of the Pacific Railway Commission. In that case Congress had undertaken to create a commission and had created a commission for the purpose of investigating the Central Pacific Railway Co., and perhaps others. They undertook to make the investigation and require the production of certain papers of that company. Mr. Justice Field in discussing their power referred to the case of Boyd against United States, in One hundred and sixteenth United States, page 616. That, by the way, is the leading case upon the subject of unlawful searches and seizures. The justice said:

In the recent case of Boyd *v.* United States (116 U. S., 616; 6 Sup. Ct. Rep., 524) the Supreme Court held that a provision of a law of Congress which authorized a court of the United States in revenue cases, on motion of the Government attorney, to require the defendant or claimant to produce in court his private books, invoices, and papers, or that the allegations of the attorney respecting them should be taken as confessed, was unconstitutional and void as applied to suits for penalties or to establish a forfeiture of the party's goods. The court, speaking by Mr. Justice Bradley, said:

"Any compulsory discovery extorting the party's oath or compelling the production of his private books and papers to convict him of crime or to forfeit his property is contrary to the principles of a free government. It is abhorrent to the instincts of an Englishman; it is abhorrent to the instincts of an American. It may suit the purpose of despotic power, but it can not abide the pure atmosphere of political liberty and personal freedom."

That is the end of the quotation from Mr. Justice Bradley. Then Mr. Justice Field proceeds:

The language thus used had reference, it is true, to the compulsory production of papers as a foundation for criminal proceedings; but it is applicable to any such production of the private books and papers of a party otherwise than in the course of judicial proceedings or a direct suit for that purpose. It is the forcible intrusion into and compulsory exposure of one's private affairs and papers without judicial process, or in the course of judicial proceedings, which is contrary to the principles of a free government and is abhorrent to the instincts of Englishmen and Americans.

Then he quotes that famous language of Lord Camden, from an early English case, in Nineteenth Howard State Trials, where it is said:

Papers are the owner's goods and chattels; they are his dearest property, and are so far from enduring a seizure that they will hardly bear an inspection; and though the eye can not, by the laws of England, be guilty of trespass, yet where papers are removed and carried away the secret nature of those goods will be an aggravation of the trespass and demand more considerable damages in that respect. Where is the written law that gives any magistrate such a power? I can safely answer there is none; and therefore it is too much for us,

without such authority, to pronounce a practice legal which would be subversive of all the comforts of society.

Then, after that quotation, Mr. Justice Field proceeds:

Compulsory process to produce such papers, not in a judicial proceeding, but before a commission of inquiry, is as subversive of "all the comforts of society" as their seizure under the general warrant condemned in that case. The principles laid down in the opinion of Lord Camden, said the Supreme Court of the United States, "affect the very essence of constitutional liberty and security. They reach further than the concrete form of the case then before the court with its adventitious circumstances; they apply to all invasions on the part of the Government, and its employees, of the sanctity of man's home and the privacies of life."

Mr. WHITE. Will the Senator from Utah give me that citation, please?

Mr. SUTHERLAND. Thirty-second Federal Reporter, page 251.

Mr. LEWIS. May I say to the able Senator that the decision referred to by Lord Camden, which was the case of Entick against Carrington, Nineteenth Howard State Trials, received more thorough consideration in the case of Weeks against United States, which came up to the Supreme Court of the United States only lately. The case is possibly familiar to the able Senator, and if not, I will be very glad, if he is not overburdened with labor, to place it before him.

Mr. SUTHERLAND. I have read the case, and I have it on my desk here, in Two hundred and thirty-second United States.

This rule applies to corporations as well as to individuals. That was expressly decided by the Supreme Court in a very recent case—the case of Hale against Henkel—where the court said, in Two hundred and first United States, page 75:

Although, for the reasons above stated, we are of the opinion that an officer of a corporation which is charged with a violation of a statute of the State of its creation, or of an act of Congress passed in the exercise of its constitutional powers, can not refuse to produce the books and papers of such corporation, we do not wish to be understood as holding that a corporation is not entitled to immunity, under the fourth amendment, against unreasonable searches and seizures. A corporation is, after all, but an association of individuals under an assumed name and with a distinct legal entity. In organizing itself as a collective body it waives no constitutional immunities appropriate to such body. Its property can not be taken without compensation. It can only be proceeded against by due process of law, and is protected, under the fourteenth amendment, against unlawful discrimination. Gulf, etc., Railroad Co. v. Ellis (165 U. S., 150, 154) and cases cited. Corporations are a necessary feature of modern business activity, and their aggregated capital has become the source of nearly all great enterprises.

It has been established, I think, beyond any question that, while the fifth amendment, with reference to compelling incriminating testimony, does not apply to a corporation, the fourth amendment, against unlawful searches and seizures, does, and a corporation, so far as its books and papers are concerned, has exactly the same immunity in that respect that an individual has.

Mr. WHITE. I would be glad if the Senator would give me the last citation.

Mr. SUTHERLAND. Two hundred and first United States, page 75.

While I have this volume before me I wish to call attention to one or two other cases. First, I will call attention to the case to which the Senator from Illinois [Mr. LEWIS] just referred, Two hundred and thirty-second United States, page 391, in which they quote from Mr. Justice Bradley:

The principles laid down in this opinion—

Referring to the decision of Lord Camden—

affect the very essence of constitutional liberty and security. They reach further than the concrete form of the case then before the court, with its adventitious circumstances; they apply to all invasions on the part of the Government and its employees of the sanctity of a man's home and the privacies of life. It is not the breaking of his doors and the rummaging of his drawers that constitutes the essence of the offense, but it is the invasion of his indefeasible right of personal security, personal liberty, and private property, where that right has never been forfeited by his conviction of some public offense; it is the invasion of this sacred right which underlies and constitutes the essence of Lord Camden's judgment.

I will not stop to read at any length from the Weeks case, but it is a very instructive case, and is the last expression of the Supreme Court with reference to this subject.

The author that I have already referred to, Mr. Spelling, at page 303 of this book, also calls attention to this doctrine. After referring to some of the decisions of the Supreme Court, he says:

But clearly the power must be exercised with a definite purpose in view, a purpose to accomplish a result within the court's jurisdiction.

That is, it must be, as I understand it, to accomplish some specific thing. If a case is pending, then the court may require the production of papers relating to that case. The papers must be specified, however. The documents must be specified at least generally. It is not sufficient to send out a subpœna in general terms directing the party to bring in all his private papers. That was expressly condemned in the case of Hale against Henkel, to which I called attention.

I again call attention to the language of the Supreme Court in Two hundred and first United States, at page 71. The court says:

We held—

Referring to the Boyd case—

That a compulsory production of a man's private papers to establish a criminal charge against him, or to forfeit his property, is within the scope of the fourth amendment to the Constitution in all cases in which a search and seizure would be, and that the order in question was an unreasonable search and seizure within that amendment.

That is, the requirement to produce the papers, even the issuance of a subpœna, may be within the meaning of the fourth amendment of unreasonable search and seizure.

Further on:

We are also of opinion that an order for the production of books and papers may constitute an unreasonable search and seizure within the fourth amendment. While a search ordinarily implies a quest by an officer of the law, and a seizure contemplates a forcible dispossession of the owner, still, as was held in the Boyd case, the substance of the offense is the compulsory production of private papers—

Let me repeat that for the sake of emphasis—

the substance of the offense is the compulsory production of private papers, whether under a search warrant or a subpœna duces tecum, against which the person, be he individual or corporation, is entitled to protection. Applying the test of reasonableness to the present case, we think the subpœna duces tecum is far too sweeping in its terms to be regarded as reasonable. It does not require the production of a single contract, or of contracts with a particular corporation, or a limited number of documents, but all understandings, contracts, or correspondence between the MacAndrews & Forbes Co. and no less than six different companies, as well as all reports made and accounts rendered by such companies from the date of the organization of the MacAndrews & Forbes Co., as well as all letters received by that company since its organization from more than a dozen different companies, situated in seven different States in the Union.

That was condemned by the Supreme Court in that case. What would they say about language which does not even confine it to transactions between a number of different companies, but which authorize this commission to require any corporation "to furnish to the commission from time to time information, statements, and records concerning its organization, business, financial condition, conduct, practices, management, and relation to other corporations, or to individuals, associations, or partnerships, and to require the production for examination of all books, documents, correspondence, contracts, memoranda, or other papers relating to or in any way affecting the commerce in which such corporation under inquiry is engaged," and, moreover, require it to produce papers and documents which concern "its relations to any individual, association, or partnership, and to make copies of the same."

Under that they could issue an order to a corporation or to any number of corporations to bring before them all their books, all their papers, and every written thing which they may have.

Mr. STERLING. What case is that?

Mr. SUTHERLAND. It is Two hundred and first United States, Hale against Henkel. The court proceeds:

If the writ had required the production of all the books, papers, and documents found in the office of the MacAndrews & Forbes Co., it would scarcely be more universal in its operation or more completely put a stop to the business of that company. Indeed, it is difficult to say how its business could be carried on after it had been denuded of this mass of material, which is not shown to be necessary in the prosecution of this case and is clearly in violation of the general principle of law with regard to the particularity—

"With regard to the particularity"—

required in the description of documents necessary to a search warrant or subpœna. Doubtless many, if not all, of these documents may ultimately be required, but some necessity should be shown, either from an examination of the witnesses orally, or from the known transactions of these companies with the other companies implicated, or some evidence of their materiality produced, to justify an order for the production of such a mass of papers. A general subpœna of this description is equally indefensible as a search warrant would be if couched in similar terms.

Further on, in the dissenting opinion—although not on this point—of Mr. Justice Brewer and the Chief Justice, at page 86, they say:

Neither does the fact that a corporation is engaged in interstate commerce in any manner abridge the protection and applicable immunities accorded by the amendments.

The corporation of which the petitioner was an officer was chartered by a State, and over it the General Government has no more control than over an individual citizen of that State. Its power to regulate commerce does not carry with it a right to dispense with the fourth and fifth amendments, to unreasonably search or seize papers of an individual or corporation engaged in such commerce, or deprive him or it of any immunity or protection secured by either amendment.

It is true that there is a power of supervision and inspection of the inside workings of a corporation, but that belongs to the creator of the corporation. If a State has chartered it, the power is lodged in the State. If the Nation, then the Nation, and it can not be exercised by any other authority. It is the nature of the power of visitation.

From page 88 I quote this further statement:

The fact that a State corporation may engage in business which is within the general regulating power of the National Government does not give to Congress any right of visitation or any power to dispense with the immunities and protection of the fourth and fifth amendments. The National Government has jurisdiction over crimes committed within its special territorial limits. Can it dispense in such cases with these immunities and protections? No more can it do so in respect to the acts and conduct of individuals coming within its regulating power. It has the same control over commerce with foreign nations as over that between the States.

Now, I call attention also to a general statement contained in a memorandum which was prepared with great care by Mr. Carman F. Randolph, a very eminent lawyer. Everybody who knows him knows that his opinion upon a question of this kind is entitled to great weight. I call attention to one or two of his expressions. On page 9 of this brief or memorandum, he first quotes from another part of the case of Hale against Henkel, from which I have been reading, in which it is stated—this is a quotation from the Supreme Court—

But such franchises, so far as they involve questions of interstate commerce, must also be exercised in subordination to the power of Congress to regulate such commerce, and in respect to this the General Government may also assert a sovereign authority to ascertain whether such franchises have been exercised in a lawful manner, with a due regard to its laws. Being subject to this dual sovereignty, the General Government possesses the same right to see that its own laws are respected as the State would have with respect to the special franchises vested in it by the laws of the State. The powers of the General Government in this particular in the vindication of its own laws are the same as if the corporation had been created by an act of Congress. It is not intended to intimate, however, that it has a general visitorial power over State corporations.

Then, referring to another case, that of Harriman against the Interstate Commerce Commission, which I have here, this quotation is made from pages 417 to 421, Two hundred and eleventh United States Reports:

The legislation that the commission may recommend embraces, according to the arguments before us, anything and everything that may be conceived to be within the power of Congress to regulate, if it relates to commerce with foreign nations or among the several States.

I may pause here in reading to say that this was an attempt on the part of the Interstate Commerce Commission to compel the attendance of witnesses and to make an investigation without a specific case being before it, but with a view, among other things, of making a report to Congress to enable Congress to help to pass additional legislation. The court proceeds:

And the result of the arguments is that whatever might influence the mind of the commission in its recommendations is a subject upon which it may summon witnesses before it and require them to disclose any facts, no matter how private, no matter what their tendency to disgrace the person whose attendance has been compelled. If we qualify the statement and say only legitimately influence the mind of the commission in the opinion of the court called in aid, still it will be seen that the power, if it exists, is unparalleled in its vague extent.

How far Congress could legislate on the subject matter of the questions put to the witnesses was one of the subjects of discussion, but we pass it by. Whether Congress itself has the unlimited power claimed by the commission we also leave on one side. It was intimated that there was a limit in Interstate Commerce Commission *v.* Brimson (154 U. S., 447, 448, 479). Whether it could delegate the power, if it possesses it, we also leave untouched, beyond remarking that so unqualified a delegation would present the constitutional difficulty in most acute form.

I call especial attention to this:

The power to require testimony is limited, as it usually is in English-speaking countries, at least to the only cases where the sacrifice of privacy is necessary—those where the investigations concern a specific breach of the law.

The court goes on then and holds that the act does not authorize any such proceeding, and the intimation is very clear that it would not be warranted by the Constitution.

Mr. KENYON. From what case is the Senator from Utah reading?

Mr. SUTHERLAND. From Harriman *v.* The Interstate Commerce Commission (211 U. S. R.).

Mr. STERLING. What page?

Mr. SUTHERLAND. It begins on page 407. The court adds:

We could not believe on the strength of other than explicit and unmistakable words that such autocratic power was given for any less specific object of inquiry than a breach of existing law, in which, and in which alone, as we have said, there is any need that personal matters should be revealed.

I said I was going to quote from Mr. Randolph, and I have thus far quoted from quotations made by him; but this is his conclusion:

The conclusions of the opinion are strengthened by the later decisions cited. Hale *v.* Henkel, while maintaining a proper Federal right to see that State corporations respect the Federal law, disclaims any general Federal visitorial power over them and affirms to them the protection of the fourth amendment. And all the decisions follow the best tradition of our jurisprudence in condemning the dragnet and the short-cut quest, even—

Mark the word "even"—

even when a breach of the law is in question.

Of course, much more so if no breach of the law is in question; but we are simply investigating for some unknown purpose. Then he concludes:

If such rough and roving quests are forbidden, even when they are incident to a regular proceeding, for vindication of the law, how can they be permitted to a purely administrative body in a mere search for information, whether it be undertaken in problematic aid of legislation or on rumor or suspicion of wrongdoing?

And yet this commission, for almost any conceivable purpose, is given the power to compel the production of all the papers and of all the books and of all the documents of any corporation, and to investigate its relations with individuals and corporations, whether or not those relations relate to interstate commerce.

Mr. WALSH. Mr. President——

Mr. SUTHERLAND. Just a moment. And it may do that with a view of recommending legislation to Congress; it may do it with a view of exercising its power as a publicity bureau to acquaint the public with what they have found out or for any conceivable reason which may appeal to them. Now I yield to the Senator from Montana.

Mr. WALSH. Mr. President, I have before me the interstate-commerce act which gives to the Interstate Commerce Commission a like power—to compel the production of books and orders. Does the Senator involve the Interstate Commerce Commission in the condemnation directed against this bill, or does he discriminate in some manner?

Mr. SUTHERLAND. The decisions which I read from the Supreme Court were with reference to the Interstate Commerce Commission.

Mr. WALSH. Exactly.

Mr. SUTHERLAND. And they held, or they intimated, at any rate, that if any such power was conferred it was beyond the power of Congress.

Mr. WALSH. That is to say, the statute received such a construction as gave it a restricted effect within constitutional limits.

Mr. SUTHERLAND. They call attention to the different provisions of the statute which very clearly show that.

Mr. WALSH. So that those decisions clearly mark out the line in which the trade commission may operate under this bill, do they not? I understand the argument of the Senator, however, to be to the effect that the provision would have no force or effect at all because of the constitutional objections which he urges.

Mr. SUTHERLAND. The Senator evidently has not been here while I have been discussing the matter.

Mr. WALSH. I have been trying to follow the argument of the Senator.

Mr. SUTHERLAND. I undertook to point out why I thought it was invalid, and I made a general statement in the beginning as to why I thought so. I am now taking up these sections seriatim.

Mr. WALSH. I am speaking of the section the Senator is now canvassing, and I was simply curious to know whether the Senator involved the provision in the interstate-commerce act in the same condemnation or whether he discriminated between the two or whether he took the position that a different construction would have to be given to this act?

Mr. SUTHERLAND. I think that this bill goes entirely beyond the provisions of the interstate-commerce law.

Mr. WALSH. I have that act before me here.

Mr. SUTHERLAND. And I am now criticizing it in that view.

Mr. WALSH. If the Senator will pardon me, I will be very glad to read the provisions of the interstate-commerce act.

Mr. SUTHERLAND. I hope the Senator will not do that, because I should like to get through with what I have to say, and I have read the provisions of that act.

This bill gives the trade commission the power to compel the production of all papers, and, I repeat, it gives them the power to compel the production of papers whether or not they relate to interstate commerce or whatever they relate to. That power, it seems to me, can not be justified under any view of constitutional guaranties.

The next subdivision that I shall call attention to very briefly is subdivision (c) of section 3, as follows:

(c) To prescribe as near as may be a uniform system of annual reports from such corporations or classes of corporations subject to the provisions of this act as the commission may designate, and to fix the time for the filing of such reports, and to require such reports, or any special report, to be made under oath, or otherwise, in the discretion of the commission.

It seems to me that that is a power which at least admits of very oppressive use. No rule, no standard, is laid down; there is no provision by which the commission may be restricted to

any specific thing, but it is given the power to prescribe such uniform system of annual reports as they may designate; to fix the time for the filing of the reports; and to require such reports to be made under oath, or otherwise, in their discretion. I think there must be a standard in a matter of that kind as well as in the conferring of other substantive powers upon a commission. No such standard is provided here. Upon that general subject I call attention to the same writer, Mr. Randolph, who says:

The rule against delegating legislative power to administrative bodies has come to be more liberally construed under the tremendous pressure of *the functions* assumed by the modern State, but the principle and the range of their jurisdiction—whether of persons or of matters—should, if not fully mapped out by the legislature, be indicated sufficiently to preclude a loose right of selection. For if an act of the body be not rooted in jurisdiction duly conferred by the law-making authority it is without warrant—and this is equally true of classification for jurisdictional purposes.

I call attention in that connection to section 6:

SEC. 6. That if any corporation subject to this act shall fail to file any annual or special report, as provided in subdivision (b) of section 3 hereof, within the time fixed by the commission for filing the same, and such failure shall continue for 30 days after notice of such default, the corporation shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure—

And so forth.

That is a pretty drastic provision. A corporation can be required to furnish reports about all its business affairs, whether they relate to interstate commerce or something else, with the utmost detail; and if it fail to comply it is to be subject to this penalty.

Section 9 has a general bearing upon this and other sections. That section provides:

SEC. 9. The district courts of the United States, upon the application of the commission alleging a failure by any corporation, or by any of its officers or employees, or by any witness, to comply with any order of the commission for the furnishing of information, shall have jurisdiction to issue such writs, orders, or other process as may be necessary to enforce any order of the commission and to punish the disobedience thereof.

It occurs to me that that is rather a remarkable power to vest in a court. The commission is given the power to enforce any order that this administrative body may choose to make. I can not conceive how that can be a judicial power. If Congress makes an order, certainly Congress can not go to a court to enforce its order; if a committee of Congress makes an order, certainly it can not go to any court to enforce its order; and I do not think that Congress could pass a law which would authorize it to go to a court to enforce its order. I am aware of the fact that there is a comparatively recent decision in the Supreme Court which held, by a divided court, that a certain order for the production of testimony might be enforced by the court, and I shall have occasion in a moment or two to call attention to that case; but, first of all, I call attention to general statements made upon this subject in the case to which I have already referred in the Thirty-second Federal Reporter, at page 241. I call attention to that because that case grew out of the fact that the Congress had appointed the Pacific Railway Commission, which was authorized to investigate the affairs of the Pacific Railway companies, and directed that its orders might be enforced by application to the court. In the course of that decision it was stated:

The judicial power of the United States is therefore vested in the courts and can only be exercised by them in the cases and controversies enumerated and in petitions for writs of habeas corpus. In no other proceedings can that power be invoked, and it is not competent for Congress to require its exercise in any other way. Any act providing for such exercise would be a direct invasion of the rights reserved to the States or to the people, and it would be the duty of the court to declare it null and void. Story says in his Commentaries on the Constitution that "the functions of the judges of the courts of the United States are strictly and exclusively judicial. They can not therefore be called upon to advise the President in any executive measures or to give extrajudicial interpretations of law or to act as commissioners in cases of pensions or other like proceedings.

Then he goes on and quotes from some other authorities. Later on, at page 258, Mr. Justice Field says:

The provision of the act authorizing the courts to aid in the investigation in the manner indicated must therefore be adjudged void. The Federal courts under the Constitution can not be made the aids to any investigation by a commission or a committee into the affairs of anyone. If rights are to be protected or wrongs redressed by any investigation, it must be conducted by regular proceedings in the courts of justice in cases authorized by the Constitution.

Again, on page 259, he says:

It is enough that the Federal courts can not be made the instruments to aid the commissioners in their investigations. It also renders it unnecessary to make any comment upon the extraordinary position taken by them according to the statement of the respondent, to which we have referred, that they did not regard themselves bound in their examination by the ordinary rules of evidence, but would receive hearsay and ex parte statements, surmises, and information of every character that might be called to their attention. It can not be that the courts of the United States can be used in furtherance of investigations in which all rules of evidence may be thus disregarded.

In a concurring opinion by Mr. Circuit Judge Sawyer he says—and I call particular attention to this, not only in connection with this matter, but in connection with the other powers conferred upon the trade commission—

A general, roving, offensive, inquisitorial, compulsory investigation, conducted by a commission without any allegations, upon no fixed principles, and governed by no rules of law, or of evidence, and no restrictions except its own will, or caprice, is unknown to our Constitution and laws; and such an inquisition would be destructive of the rights of the citizen and an intolerable tyranny. Let the power once be established and there is no knowing where the practice under it would end.

The whole case is a very instructive one upon the general subject.

In the Brimson case, in One hundred and fifty-fourth United States, the Supreme Court held that the powers conferred by the interstate-commerce act, with reference to compelling the attendance of witnesses, could be enforced. That was a decision by five judges. Three judges—Chief Justice Fuller, Mr. Justice Brewer, and Mr. Justice Jackson—dissented. Mr. Justice Field, who undoubtedly would have agreed with them if he had been present, was not present at the argument, so that it may be regarded as a "five to four" decision. Nevertheless, it is the law; but I call attention to that case for the purpose of suggesting that the case should not be extended beyond what is decided. At least one circuit court refused to follow it in a case arising under the pension laws. I read, however, from page 478:

We do not overlook these constitutional limitations which, for the protection of personal rights, must necessarily attend all investigations conducted under the authority of Congress. Neither branch of the legislative department, still less any merely administrative body, established by Congress possesses or can be invested with a general power of making inquiry into the private affairs of the citizens. (Kilbourn *v.* Thompson, 103 U. S., 168, 190.) We said in Boyd *v.* United States (116 U. S., 616, 630)—and it can not be too often repeated—that the principles that embody the essence of constitutional liberty and security forbid all invasion on the part of the Government and its employees of the sanctity of a man's home and the privacies of his life. As said by Mr. Justice Field in In re Pacific Railway Commission (32 Fed. Rep., 241, 250;—

I call attention to that particularly, because that is the case from which I have just read. Quoting from Mr. Justice Field:

Of all the rights of the citizen few are of greater importance or more essential to his peace and happiness than the right of personal security, and that involves not merely protection of his person from assault, but exemption of his private affairs, books, and papers from the inspection and scrutiny of others. Without the enjoyment of this right all others would lose half their value.

One of the cases to which I have referred as having declined to follow that decision under other circumstances is found in Eighty-first Federal Reporter at page 847. I shall not stop to read it; it is rather lengthy.

I will, however, read this single extract from it:

Mr. Justice Harlan, in the opinion in the Brimson case, considers the constitutional objections that were made in the cases just cited to these statutes, invoking the aid of the courts for the production of testimony, and sustains the procedure directed by the interstate-commerce acts just referred to, upon the distinct ground that the commission was required, as the Supreme Court interprets the acts, by a petition to the circuit court, to distinctly set forth the particular questions to be answered, and the certain books and papers mentioned and named, and that it was then open to each witness to contend before that court that he was protected by the Constitution from making answer to the questions propounded to him, or that he was not legally bound to produce the books, papers, etc., ordered to be produced.

But here the attempt is made to invest the court with the general and sweeping power to enforce all of the orders with reference to furnishing information, no matter what the information may relate to, and without reference to its having application to some specific inquiry.

The next subdivision is subdivision (d). That is the provision which gives the commission power—

To make public, in the discretion of the commission, any information obtained by it in the exercise of the powers, authority, and duties conferred upon it by this act, except so far as may be necessary to protect trade processes, names of customers, and such other matters as the commission may deem not to be of public importance—

Not as Congress may deem proper, not as Congress may limit by some definite rule or standard, but as the commission, in its unrestricted discretion, may deem not to be of public importance—

and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation.

So this commission, in addition to prying into all the affairs of these various corporations, in its discretion, is given the power to publish broadcast the information it obtains, with certain specific limitations. I can not myself see what that general power had to do with interstate commerce—to publish these things to gratify somebody's curiosity as to what is going on. What has that to do with interstate commerce?

Mr. Spelling, referring to another phase of this bill or a similar bill, makes a remark which will apply to that when he says:

What has the manner in which books are kept to do with interstate commerce? If this is not merely an attempt to evade the Constitution,

why not just have Congress declare this duty as a regulation and impose a penalty for noncompliance? We should then see how long it could stand against an attack in the courts.

I now call attention to the language of the Supreme Court in One hundred and eighteenth United States, page 370. I think it is pretty good doctrine to consider in connection with all of these powers that are attempted to be conferred. The court says:

When we consider the nature and the theory of our institutions of government, the principles upon which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power.

What is it but arbitrary power that we have conferred upon this commission?

Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power. It is, indeed, quite true that there must always be lodged somewhere and in some person or body the authority of final decision, and in many cases of mere administration the responsibility is purely political, no appeal lying except to the ultimate tribunal of the public judgment, exercised either in the pressure of opinion or by means of the suffrage. But the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous language of the Massachusetts bill of rights, the government of the Commonwealth "may be a government of laws and not of men," for the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails as being the essence of slavery itself.

Here is a bill which confers upon a commission almost unrestricted power without any rule or standard being laid down according to which it must be exerted, to do whatever they may deem they ought to do, whatever they may think they care to do in the way of prying into the affairs, the books, and papers of any and every corporation in the country.

I also insert an extract from the case of Fisher Co. *v.* Woods (187 N. Y., 90). I read from page 94:

The legislature may not, under the guise of protecting the public interest, arbitrarily interfere with private business or impose unusual or unnecessary restrictions upon lawful occupations. The legislative determination as to what is a proper exercise of the police power is subject to the supervision of the court and in determining the validity of an act it is its duty to consider not only what has been done under the law in a particular instance but what may be done under and by virtue of its authority.

That is a complete answer to the statement of the Senator from Nevada that these extraordinary powers may not be exercised by the commission. He is trusting them not to exercise to the full the powers which we have conferred upon them. The test of the validity of the law is, however, What are the powers we have conferred?—not What powers are likely to be exercised by the commission upon whom they are conferred?

The court proceeds:

Liberty in its broad sense means the right not only of freedom from servitude, imprisonment, or restraint, but the right of one to use his faculties in all lawful ways, to live and work where he will, to earn his livelihood in any lawful calling, and to pursue any lawful trade or avocation.

The next clause is that contained in the section lettered "(e)." That clause attempts to confer upon the commission the powers of a master in chancery. It provides:

In any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust acts, if the court finds for the complainant it may, upon its own motion or the motion of any party to such suit, refer the matter of the form of the decree to be entered to the commission as a master in chancery; whereupon the commission shall proceed in that capacity upon such notice to the parties and upon such hearing as the court may prescribe, and shall as speedily as practicable make report with its findings to the court, which report and findings having been made and filed shall be subject to the judicial procedure established for the consideration and disposition of a master's report and findings in equity cases.

I make this proposition preliminarily, and I think it can not be disputed: The appointment of a master in chancery is a judicial function. No legislature can appoint an assistant to a court. That is purely a judicial power. The Supreme Court of Wisconsin, and I think one or two other courts, went so far as to hold that even an assistant in the court room—not an assistant to the court in the discharge of its official duties, but an assistant in the court room—could not be appointed by the legislature or by an executive; that that power belonged to the courts. So, clearly, if this bill had attempted to make the appointment and to make it binding upon the court, it would have been utterly void, because it is clearly an attempt to exercise the judicial power of appointing as an assistant to the court a master in chancery, a power which belongs only to the court itself.

It may be said, however, and will be said, that the effect of this is simply to point out this commission as a body to whom a court may refer these matters as a master in chancery.

I make this suggestion about it, however, that if the appointment of a master in chancery be the exercise of judicial power, and be a function outside of the legislative power, then any litigant in the courts has a right to insist that the court shall exercise its judicial power. In other words, it does not lie with the court alone to say that it shall permit the legislative body to appoint its assistants. The litigants have something to say about it; and when one of these litigants concerned in the transactions that may be the subject of judicial investigation comes into the court, he will have a right to say that every function of the court must be performed by the court itself; that the court is not only not obliged to accept the appointee of the legislative body as a master in chancery, but that it can not accept the appointee of the legislature; that it must make the appointment itself.

I make that statement with some hesitation, although I believe there is force in the suggestion.

Mr. CUMMINS. Mr. President——

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Iowa?

Mr. SUTHERLAND. I do.

Mr. CUMMINS. This paragraph of the section simply qualifies or renders competent the commission to receive an appointment by the courts. It does not appoint nor impose any restraint whatever upon the courts.

Mr. SUTHERLAND. I have said that, substantially.

Mr. CUMMINS. But the Senator, in the latter part of his remarks, seemed to imply that there was something here in the nature of an appointment. I desire to suggest this to him: The court has the inherent power to appoint an administrator; that is a judicial function; but does the Senator doubt the power of a legislature to make a corporation competent to act as an administrator?

Mr. SUTHERLAND. Oh, no.

Mr. CUMMINS. If the legislature can make a corporation competent to act as an administrator, why can it not make the commission competent to act as a master in chancery?

Mr. SUTHERLAND. I do not think the appointment of an administrator is necessarily the exercise of judicial power. In fact, the legislature might provide, and does provide, that certain persons shall not act as administrator.

Mr. CUMMINS. I have not any doubt that the legislature could disqualify certain persons from acting as master in chancery.

Mr. SUTHERLAND. In making a will the testator appoints an executor and the court is bound to execute the will.

Mr. CUMMINS. I am speaking not of the executor, but the administrator.

Mr. SUTHERLAND. The administrator does not assist the court in deciding cases in performing its judicial functions. The administrator is a business agent who handles the estate and makes his report to the court. At any rate, I make the suggestion that I think there is very great doubt about it.

One of the leading cases upon this general subject is that of the State ex rel. Hovey *v.* Noble (118 Ind., p. 350). There was an attempt on the part of the legislature to appoint a commission to assist the court in hearing and deciding cases. The legislature provided, however, that the court was not to be bound by its findings. It was to review, and then the court could make such decision as it pleased. In the course of the decision the court said, at page 159, Tenth American State Reports:

The people have a right to the courts established by and under the constitution, and this constitutional right the legislature can neither alter nor abridge. Constitutional tribunals can not be changed by legislation, and the supreme court is a constitutional court. It can be composed of judges only; for only judges can constitute a court. No part of the judicial duties of that court can be assigned to any other person than one of the duly chosen judges. The legislature has no power to change its organization, nor can that body, under the guise of creating commissioners, divide the duties of the judges, nor authorize it to be done.

I repeat that. It can not divide the duties of the judges nor authorize it to be done.

Mr. CUMMINS. On the question of the right of a court to appoint a master in chancery who was not a judge, how and where does the court secure that right?

Mr. SUTHERLAND. It acquires it as a court that exercises judicial power.

Mr. CUMMINS. But the extract the Senator was just reading says that the court can not receive aid from anybody but a judge in discharging its judicial functions.

Mr. SUTHERLAND. No; it does not say that. The legislature has no power to change the organization of the court, nor can the legislature, under the guise of creating a commission, divide the duties of the judges nor authorize it to be done.

This authorizes the duties of the judges to be done by dividing the duties of the judges between the judges and the commissioners appointed according to the act of the legislature.

Mr. CUMMINS. I will agree to that perfectly; but, inasmuch as it is a function of the court to appoint an aid in the form of a master in chancery, and that being undoubtedly true, I see no possible escape from the conclusion that the legislature may render a person or a corporation competent to receive the appointment.

Mr. SUTHERLAND. I think this does more than that. It does more than to render him eligible. The court proceeds:

Under our Constitution as amended the legislature may establish courts, but it can not destroy the constitutional courts—the circuit courts and the Supreme Court—nor can it change their organization nor redistribute their powers, for these courts owe their organization to the Constitution, and as the Constitution has ordained that they shall be organized, so they shall be.

* * * * * * *

It is clear to us that there is, and can be, no such offices as the legislature has assumed to create, and that the act is in all its parts utterly void.

There are some other statements in the case that I shall desire to insert in the RECORD. I will not stop to read them now.

Since the time of Queen Elizabeth, courts have appointed masters in chancery, and masters in chancery and master commissioners now are, and have always been, appointed by the Federal courts. Our own law has from the earliest years of the State recognized, as it does still, the right of the judiciary to select masters in chancery and master commissioners.

* * * * * * *

Proceeding still further upon the concession which we have provisionally made—and made simply for argument's sake—we affirm that the power to appoint the "ministers and assistants" of the judges is a judicial power, and was a judicial power when the Constitution was adopted. We assert, as a conclusion necessarily following from the proposition we have affirmed, that when the framers of the Constitution declared that the judicial power was vested in the courts, they invested this power in the judiciary as it then existed, and that this investment conferred upon the courts the exclusive power to choose their own ministers and assistants. We suppose no one will deny that the courts, from the earliest ages of the law, have possessed the power to appoint referees, receivers, commissioners, and all other like ministers or assistants, and that they possessed this power because it was a judicial power. If it was not a judicial power, it could not have resided in the courts, for courts have no other power.

* * * * * * *

Those who are chosen by the people to sit as judges must themselves discharge all the judicial duties of their offices. The trust is imposed upon them, and they can not share their judicial duties with any person. The people have a right to the judgment of those whom they have made judges, and this right the judges can not surrender, if they would, without a flagrant breach of a sworn duty. The trust is a personal one, inalienably invested in the persons selected by the people, and it can not be delegated by the judges themselves, nor by any one else for them.

The next section I desire to call attention to is section 7, which provides that—

Any person who shall willfully destroy, alter, mutilate, or remove out of the jurisdiction of the United States or authorize, assist in, or be privy to the willful destruction, alteration, mutilation, or removal out of the jurisdiction of the United States of any book, letter, paper, or document containing an entry or memorandum relating to commerce, the production of which the commission may require under this act, or who shall willfully make any false entry relating to commerce in any book of accounts or record of any trade association, corporate combination, or corporation, subject to the provisions of this act, or who shall willfully make or furnish to said commission or to its agent any false statement, return, or record, knowing the same to be false in any material particular, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not exceeding $5,000 or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

Now, what does that do? It provides that it shall be a criminal offense, punishable by imprisonment or a fine, or both, if any person shall willfully destroy any book, letter, paper, and so forth, not "fraudulently," but "willfully." That simply means that if he has a paper and tears it, knowing that he is tearing it, it is willfully done. If the most innocent individual imaginable shall destroy, alter, or remove out of the jurisdiction of the United States, or shall assist in or be privy to such a thing, he is guilty of this offense. There is no limit of time. The only test whether the paper can be thus willfully destroyed or removed is that it shall be a paper or memorandum which the commission may—nobody knows when, but at some time in the vast-extending future—require the production of. For all time, according to the language of this section, all these corporations must preserve all their papers and all their documents, if there be anything in them which relates to an interstate-commerce transaction, and therefore being a paper which the commission may sometime require.

Of all the extraordinary provisions of this bill, to my mind that is the most extraordinary. The idea is that a corporation must go on accumulating year after year and year after year a vast body of useless documents that have served their purpose and are no longer of use to anybody and that they must still, under this penalty of the law of imprisonment, continue to pile them up because perhaps sometime this commission may require their production.

Now, Mr. President, I come to the final question that I desire to discuss, and that is section 5 of this bill. It has been often read here and often commented upon. It provides "That unfair competition in commerce is hereby declared unlawful," and the commission is "empowered and directed to prevent corporations from using unfair methods of competition in commerce."

I presume by that that the commission may be authorized to prevent something which is not declared unlawful by this act, because the thing which is declared to be unlawful is unfair competition, and the thing which the commission is authorized and required to prevent is unfair "methods" of competition. I do not know whether it is the view of the framers of this bill that unfair competition and unfair methods of competition mean the same thing, but I do know that the words "unfair competition" have a very well settled meaning in the law and that the words "unfair methods of competition" have not. So if we accept that provision as to unfair methods of competition it seems to me very clearly that we have authorized the commission to legislate without laying down any primary standard.

What are unfair methods of competition? Can anybody tell me? Can anybody make a comprehensive list of the acts which will constitute unfair methods of competition? Of course we can frame a definition of what is unfair competition under the authorities. "Unfair competition," as I have said, has a very well settled meaning. It means simply and only, as I understand it, an attempt upon the part of one person or of a corporation to impose his or its goods or business upon the public as the goods or business of another. A violation of a trademark is an illustration of unfair competition. The element of fraud must exist. The courts have repeatedly held that if fraud does not exist it was not unfair competition. It is the palming off of something which you are attempting to sell to the public as being a product of somebody else. Here is Apollinaris water, which is a well-known brand of mineral water. If I should discover some other mineral water, whether it was as good as that or not, and should prepare a yellow label of the same color as the Apollinaris label and misspell the word, spelling it with one l instead of two l's, and put it out on the market and pretend, and give people reason to believe, that I was selling Apollinaris water as they understood Apollinaris water, that would be unfair competition.

Now, then, those things are perfectly well understood. They are within the control of the courts to-day. There is not a single instance of unfair competition that the courts are not fully competent to deal with.

What does this bill undertake to say with reference to the powers of the commission in that respect? It provides that—

Whenever the commission shall have reason to believe that any corporation has been or is using any unfair method of competition—

Not unfair competition but unfair methods; then it may issue a written order to the corporation which it suspects and compel that corporation to appear before it and show cause why it should not be restrained. I suppose that implies that there will be a hearing, and after the hearing if it finds that the unfair methods exist it shall issue an order restraining and prohibiting the use of the same.

But that is not all. Whenever the commission after the issuance of this order finds that the corporation is not complying with it, it may petition the district court within any district where the methods were in use praying the court to issue an injunction to enforce such order of the commission. Then follows this simple and comprehensive injunction of duty upon the part of the court:

And the court is hereby authorized to issue such injunction.

Mr. NELSON. I want to call the Senator's attention to this language in lines 8, 9, and 10, on page 21:

And if upon such hearing the commission shall find that the method of competition in question is prohibited by this act.

Now, what method of competition is prohibited by the act? Can the Senator or anyone else tell? It does not say that the commission shall find that it is unfair competition, but if they find that the method used is unfair——

Mr. SUTHERLAND. Nobody knows what that is.

Mr. NELSON. That method is prohibited by this act. There is no guide, no criterion.

Mr. SUTHERLAND. Not a thing. If it means, as I argued the other day about it, what the prohibitory part of the sec-

tion says, namely, unfair competition, then in view of the power that is conferred upon the commission, and the apparent provision of the bill, that the court shall simply enforce its orders, it would seem to me to be very clear that it is an attempt to confer judicial power.

Mr. NELSON. Will the Senator allow me?

Mr. SUTHERLAND. Yes.

Mr. NELSON. Suppose the commission should find that corporation A uses an unfair method in competition by selling its goods cheaper than its competitor across the street, what then? Is that a case that would be obnoxious to the law?

Mr. SUTHERLAND. I do not know.

Mr. NELSON. Does anybody know?

Mr. SUTHERLAND. No; I am afraid not.

Mr. NELSON. I should like to know if the Senator from Iowa [Mr. CUMMINS] would know in such a case.

Mr. CUMMINS. Yes; I know.

Mr. NELSON. If he would undersell his goods?

Mr. CUMMINS. It would not be unfair competition.

Mr. SUTHERLAND. Would it be an unfair method of competition?

Mr. CUMMINS. It would not. Is there any further inquiry to be made?

Mr. SUTHERLAND. I hope the commission will be as certain about these matters as the Senator from Iowa is.

Mr. CUMMINS. Mr. President, no sane, sensible man ever suggested that mere underselling constitutes unfair competition.

Mr. NELSON. Can the Senator give us an illustration of what would be an unfair method of competition?

Mr. CUMMINS. Yes; many. I was just reading one here from the very well-known case of the Mogul Steamship Co. against MacGregor, which is illustrative of the common law of England. I want to discuss it some day when my friend from Rhode Island is here.

Mr. SUTHERLAND. It is a long case, and I hope the Senator will let me finish.

Mr. CUMMINS. I had just reached that part of it in which one of the judges had recited what he regarded as an act of unfair competition.

Mr. SUTHERLAND. Mr. President, it seems that under this proposed bill when the commission determines that unfair competition or unfair methods of competition exist it issues an order which, in form, is an injunction, a thing which only a court can issue; and if that is not obeyed by the corporation enjoined, application is made to the court, and that court, so far as this bill is concerned, in a perfectly perfunctory manner itself issues a real injunction. There is no provision for citing the parties, taking testimony, trying the original case de novo; but if the order of the commission has not been complied with, the court is authorized to issue an injunction, and that is all there is to it.

Now, let me read a few decisions with reference to what is judicial power. It seems to me that that is judicial power, and if it is, the attempt to confer it upon a legislative commission is utterly void. In Fletcher *v.* Peck (6 Cranch, 87), the court says:

> It is the peculiar province of the legislature to prescribe general rules for the government of society; the application of those rules to individuals in society would seem to be the duty of other departments.

Now, then, the legislature, in compliance with that rule, as stated by the Supreme Court, has prescribed the general rule, which is that unfair competition in commerce is hereby declared unlawful. Having prescribed that general rule, the court says the application of that rule to individuals in society would seem to be the duty of another department, not the duty of the legislative department; and if it is not within the power of the legislative department, it can not be conferred upon one of these commissions.

And again, Tiffany on the Constitution, in section 117, says:

> Congress can enact any constitutional law and make it binding upon the people individually. But it has no authority to interpret, construe, or apply the law enacted. It can not judicially determine that there has been an infraction of the law by one upon whom it was obligatory. That power can only be exercised by the judiciary.

In Prentis *v.* Atlantic Coast Line (211 U. S., 226) it is said:

> The judicial inquiry investigates, declares, and enforces liabilities as they stand on present or past facts and under laws supposed already to exist. That is its purpose and end. Legislation, on the other hand, looks to the future and changes existing conditions by making a new rule to be applied thereafter to all or some part of those subject to its power. The establishment of a rate is the making of a rule for the future and, therefore, is an act legislative, not judicial, in kind.

When we created the Interstate Commerce Commission we laid down the primary standard that rates should be just and reasonable; that they should not be discriminatory. That was the general boundary which the legislative body erected, and it devolved upon the Interstate Commerce Commission to do what? Not to decide cases, but to make laws within these primary boundaries, laws which should comply with the primary standard which Congress laid down. When the Interstate Commerce Commission makes a rate, in effect it enacts a law. That has been so declared by the Supreme Court. It is a rule for the future. What do you find of that character in this provision:

> Unfair competition in commerce is hereby declared unlawful.

The trade commission, if it acts under that clause, is not making a rule or a law within this primary standard, but it is declaring when it acts that somebody has violated the law, and it is proceeding to render judgment that the violator shall be restrained and enjoined from the continuance of those acts which constitute a violation of the law.

In the Interstate Commerce Commission *v.* Railway Co. (167 U. S., p. 499) it is said:

> It is one thing to inquire whether the rates which have been charged and collected are reasonable—that is a judicial act; but an entirely different thing to prescribe rates which shall be charged in the future—that is a legislative act.

Here the transaction is completed when it is brought to them. They inquire whether or not the conduct of a given corporation squares with the declaration of Congress; whether it is a violation of the declaration that unfair competition is unlawful. Then it proceeds to render judgment.

Mr. CUMMINS. Will the Senator from Utah yield just a moment further?

Mr. SUTHERLAND. I hope the Senator will be brief.

Mr. CUMMINS. I know that I am trespassing upon the Senator's good nature, but the case that he just read from was, of course, decided prior to the act of 1906. Until then the Interstate Commerce Commission had the right to decide whether a particular rate was reasonable or unreasonable.

Mr. SUTHERLAND. I hope the Senator, if he is going to answer the argument, will do it in his own time. I am anxious to get through, and do not want to prolong the discussion any more than I can help.

Mr. CUMMINS. I was going to ask a question. In 1906 we conferred upon the Interstate Commerce Commission the right to prescribe what should be the rate in the future; and I want to ask the Senator whether the function exercised before that time by the commission of declaring a given rate unreasonable was not precisely what he is now saying that no commission can do?

Mr. SUTHERLAND. I am not saying what the commission can do. I am reading what the court said about it. The court says, in an opinion rendered by Mr. Justice Brewer, who was an able lawyer:

> It is one thing to inquire whether the rates which have been charged and collected are reasonable—that is a judicial act; but an entirely different thing to prescribe rates which shall be charged in the future—that is a legislative act.

Mr. CUMMINS. That is quite true; but that is just what the commission did from 1887 until 1906.

Mr. SUTHERLAND. The commission did not inquire as to whether or not past rates were reasonable and impose a penalty if they were unreasonable. They did not undertake to do that. They thereafter prescribed a rule for the future.

Mr. CUMMINS. They did not impose a penalty, but they ascertained whether the rate charged was reasonable or unreasonable, and then made an award——

Mr. SUTHERLAND. Made a law for the future.

Mr. CUMMINS. No; made an award in favor of the shipper who had been overcharged.

Mr. SUTHERLAND. Well, of course, the Senator can refine about it, but it seems to me it is a play upon words rather than dealing with the substance of the thing.

Mr. CUMMINS. That was not judicial power.

Mr. SUTHERLAND. I have simply read what the court said; and I am not aware that the Supreme Court has ever departed from it. In ex parte Fairbanks (194 Fed. Rep., 994) it is said:

> That which defines a judicial from a legislative act is that the one is the determination of what the existing law is in relation to some existing thing already done or happened, while the other is a predetermination of what the law shall be for the regulation of all future cases falling within its provisions. To adjudicate upon and protect the rights and interests of individual citizens and to that end to construe and apply the laws is the peculiar province of the judicial department.

In Merrill *v.* Shurburne (1 N. H., 199, 203) the court says:

> On general principles, therefore, those inquiries, deliberations, orders, and decrees which are peculiar to such a department must in their nature be judicial acts. * * * It is the province of judges to determine what is the law upon existing cases. In fine, the law is applied by one and made by the other. To do the first, therefore—to compare the claims of parties with the law of the land before established—is in its nature a judicial act. To declare what the act is or has been is judicial power; to declare what the law shall be is legislative power.

Here, as I have said, applying this case to the provisions of this bill, we declare that unfair competition is unlawful, and

the function of this commission in this aspect of the matter is to inquire whether or not the acts of the parties constitute a violation of the legislative declaration and then to issue their order upon that state of affairs; not to make a rule, not to make a law for the future.

As it seems to me, under this proposed law the power given is not to make a law within the limits of a certain primary standard, which would be a legislative act, but it is to interpret and apply and enforce a law already made, which is, in essence, a judicial act. If that be not the proper construction of it, and if the other view is to be taken of it, that by this provision with reference to unfair methods of competition or unfair competition we mean to give to this commission the power to make rules or to enact rules or laws within the limits of a primary standard, then the primary standard has not been laid down; and this amounts to an unlawful delegation of the legislative power of Congress; in other words, Congress could not say, "We appoint a commission and authorize that commission to pass such laws as it pleases or to deal with business conditions as it pleases." Obviouly that would be beyond our power, because that would be to delegate our power and our authority; but we may lay down a rule which marks accurately the limits to which the commission may go, and say, "This is our will, that unfair competition"—if that should be a definite term—"shall not exist, and within that standard you may make your subsidiary laws, so to speak."

As I have said, if the term "unfair competition" is not to be given its legal meaning, then nobody knows what the meaning is; we are upon a sea of uncertainty; it is left to the unrestricted discretion of this commission to declare anything that it pleases an unfair method of competition.

Now, I call attention upon that subject to a case in the Twenty-ninth Indiana Appeals Reports, page 217. That was a case where the law made it unlawful for any person to haul over a turnpike or over a gravel road, at any time when the road is thawing or is by reason of wet weather in a condition to be cut up and injured by the hauling, a load on a narrow-tired wagon of more than 2,000 pounds or on a broad-tired wagon a load of more than 2,500 pounds. The standard was that a narrow-tired wagon should not carry more than 2,000 pounds and a broad-tired wagon should not carry more than 2,500 pounds. That is about as definite, I think, as the provision in the bill authorizing the trade commission to deal with unfair methods of competition. The court said:

There must be some certain standard by which to determine whether an act is a crime or not; otherwise cases in all respects similar, tried before different juries, might rightfully be decided differently—

Just as different cases might be decided differently by different commissions or by commissions containing a different personnel—

and a person might properly be convicted in one county for hauling over a turnpike in that county and acquitted in an adjoining county of a charge of hauling the same load on the same wagon over a turnpike in like condition in the latter county, because of the difference in conclusions of different judges and juries based upon their individual views of what should be the standard of comparison of tires, derived from their varying experience on the opinions of witnesses as to what difference of width of tires would constitute one wagon a narrow-tired wagon and another a broad-tired wagon.

Again, Mr. Spelling, in the work to which I have already referred, says:

The original scheme of our Government was for rule by laws interpreted and enforced according to their true meaning; and that scheme has been thus far kept constantly in view. That details of administration have been provided for by rules and regulations adopted and put in force by executive departments under power clearly defined argues nothing inconsistent with persistent adherence to the original scheme. Such minor laws can not be arbitrary; they must rest upon some standard fixed in the statute conferring the authority. The executive officer or commission may have a considerable latitude of discretion in reaching conclusions of fact; but, after all, it can do little more than make a measurement, or mathematical ascertainment, or physical examination, either by personal inspection or upon taking evidence. Nor would a necessity for scientific investigation and finding render the conferring of such power invalid. The case of Field *v.* Clark (143 U. S., 649), and that of Union Bridge Co. *v.* United States (204 U. S., 364), are instructive authorities on the whole subject. But it will be seen that these cases go as far as it is possible to go toward sanctioning pure delegations of the law-making function. A reading of the opinions will also show how promptly the court would declare to be invalid an enactment which failed to fix some prehensible and unmistakable standard for executive guidance.

The Senator from New Hampshire [Mr. HOLLIS] has offered an amendment which, if it were adopted, would render the situation still more confusing. He proposes to substitute for the language now in section 5 the provision "that unlawful or oppressive competition is hereby declared to be unlawful," and "the commission is authorized to prevent unfair or oppressive methods of competition." If the words "unfair methods of competition" are indefinite, what can we say for the word "oppressive"? What is "oppressive competition"? Can anybody tell? And yet the object of this amendment, I presume, is to clarify the situation. It is almost on a parallel with the ancient Chinese law. The provision of the penal code of China which is a sort of a basket clause, as our friends who are learned in tariff matters might say—and I am not certain but that it ought to be offered as a substitute—is quite as definite:

Whoever is guilty of improper conduct and of such as is contrary to the spirit of the law, though not a breach of any specific part of it, shall be punished at least 40 blows; and when the impropriety is of a serious nature, with 80 blows.

Here is an Arkansas law which denounced as a crime the committting of any act injurious to public morals, such as a man leaving his wife and child without the means of support. The case is reported in Forty-fifth Arkansas, at page 162. The court says:

The warrant returned in this case describes the offense as "committing an act injurious to public morals by leaving his wife and child without the means of support and living openly and publicly with one Dolly Hare."

The court says:

There could be no harm in living openly and publicly with Dolly Hare or anyone else unless Dolly Hare were a woman and they were cohabiting as husband and wife, which is not charged. Many men live openly and publicly with very estimable ladies, who are either relations, dependents, or friends.

But the court said:

The warrant alleges that the petitioner was convicted of the crime of committing an act *injurious to the public morals* by leaving his wife, etc.

Then they quote the provision of the statute and continue:

We are not aware that this act has ever been judicially questioned or ever in any case heretofore enforced. It has trickled down unnoticed in practice through all the digests, and finds its place in Mansfield's, section 1961.

I am very much afraid that if we pass this bill it will not trickle down unnoticed, which would be a very good thing to happen to it; I am afraid somebody will undertake to enforce it.

For want of something more definite, the justice of the peace has brought it now to bear upon Andrew Jackson, and it must be noticed. We can not conceive how a crime can, on any sound principle, be defined in so vague a fashion. Criminality depends, under it, upon the moral idiosyncrasies of the individuals who compose the court and jury. The standard of crime would be ever varying, and the courts would constantly be appealed to as the instruments of moral reform, changing with all fluctuations or moral sentiment. The law is simply null. The Constitution, which forbids ex post facto laws, could not tolerate a law which would make an act a crime, or not, according to the moral sentiment which might happen to prevail with the judge and jury after the act had been committed.

I call attention to still another case, and then I think I am through. First, I will quote from Mr. Willoughby upon this subject. He says:

The doctrine thus declared is without objection so long as the facts which are to determine the executive acts are such as may be precisely stated by the legislature and certainly ascertained by the executive. When this is not so, the officer intrusted with the execution of the law is necessarily vested with an independent judgment as to when and how the law shall be executed; and when this independence of judgment is considerable there is ground for holding that the law is not simply one in presenti to take effect in future, but is a delegation by the lawmaking body of its legislative discretion.

It seems clear to me that section 5 of this bill falls within the condemnation I have just read.

Here was another decision in Minnesota (100 Minn., p. 445) in which the court said:

Any statute * * * which attempts to authorize the commission, in its judgment, to allow an increase of the capital stock of a corporation for such purposes and on such terms or conditions as it may deem advisable would be a delegation of legislative power and void.

Now, I come to the California case. In California the legislature passed a law which authorized the State medical board to revoke the license of any physician who should make "grossly improbable statements" in advertisements. The court held that that law was utterly void as laying down no primary standard. The case is reported in Eighty-fourth Pacific Reporter, page 39. The court said:

It is insisted by petitioner that this particular provision of the act is unreasonable, uncertain, and indefinite; that neither the act itself nor the law defines what shall be deemed "grossly improbable statements"; that the provision in question leaves it entirely to the opinion of the persons who at any time may constitute the board to determine whether a given statement is "grossly improbable," and confers authority upon such board to create an offense under the act and inflict punishment for its commission; and that for these reasons this particular provision of the act in question is void. We think this position of the petitioner must be sustained.

What more does this bill do? It declares that if the commission finds that unfair methods of competition exist it shall issue its order. By what standard shall it operate? If it declares that a particular sort of conduct on the part of a corporation in fact constitutes an unfair method of competition, is not its decision about the matter final, if the legislation is

valid, whether it would agree with the views of Congress if it were making the legislation itself or not?

The court continues:

The right of the physician to be secure in his privilege of practicing his profession is thus made to depend, not upon any definition which the law furnishes him as to what shall constitute "grossly improbable statements," but upon the determination of the board after the statement is made and simply upon its opinion of its improbability.

So here the trade commission is to determine, after the conduct has taken place, whether, in its opinion, the method adopted is an unfair method of competition, and if it thinks it is to forbid it.

No definite standard is furnished by the law under this provision whereby a physician with any safety can advertise his medical business; nor is there any definite rule declared whereby, after such an advertisement is had the Board of Medical Examiners shall be controlled in determining its probability or improbability.

* * * * * * *

And the provision of the act, even as to the judgment of the board, furnishes no standard by which that determination shall be arrived at. Taking the given advertisement by a physician the members of one board might conclude that it contained "grossly improbable statements," while another board might reach an entirely opposite conclusion. One might conclude that the statements while "improbable" were not "grossly" so. The advertisement of a physician which one board had determined did not come within the inhibition of the rule according to its judgment, a succeeding board might conclude did.

* * * * * * *

The right which a person possesses under the Constitution and the laws to practice his profession as a physician and surgeon can not be made to depend upon a provision of a statute as vague, uncertain, and indefinite as is the provision we have been considering.

Mr. KERN. Mr. President, will the Senator yield for me to make a motion for an executive session?

Mr. SUTHERLAND. I will yield to the Senator.

Mr. CUMMINS. Before the Senator from Indiana makes the motion he has in mind, I desire to submit a proposed substitute for section 5 for printing and future consideration. It is a substitute for all that part of section 5 preceding the amendment adopted to-day. I desire to have it printed and lie on the table.

Mr. POMERENE. I ask that the amendment may be read in order that we may inform ourselves about its provisions.

Mr. CUMMINS. It is very short.

The VICE PRESIDENT. Is there any objection to the reading? The Chair hears none.

The SECRETARY. In lieu of section 5, with the exception of the proviso agreed to this morning, insert the following:

Amendment intended to be proposed by Mr. CUMMINS to the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes, viz: In lieu of section 5 as reported by the committee, except the amendment adopted July 27 at the end of section 5, insert the following:

"SEC. 5. That unfair competition in commerce is hereby declared unlawful.

"The commission shall have authority to prevent such unfair competition in commerce in the manner following, to wit:

"Whenever it shall have reason to believe that any person, partnership, or corporation is violating the provisions of this section it shall issue and serve upon the defendant a complaint stating its charges in that behalf and at the same time a notice of hearing upon a day and at a place therein fixed. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint.

"If upon such hearing the commission shall find that the person, partnership, or corporation named in the complaint is practicing such unfair competition it shall thereupon enter its findings of record and issue and serve upon the offender an order requiring that within a reasonable time to be stated in said order that the offender shall cease and desist from such unfair competition. The commission may at any time set aside, in whole or in part, or modify its findings or order so entered or made. Any suit brought by any such person, partnership, or corporation to annul, suspend, or set aside, in whole or in part, any such order of the commission shall be brought against the commission in a district court of the United States in the judicial district of the residence of the person or of the district in which the principal office or place of business is located, and the procedure set forth in the act of Congress making appropriations to supply urgent deficiencies and insufficient appropriations for the fiscal year 1913, and for other purposes, relating to suit brought to suspend or set aside, in whole or in part, an order of the Interstate Commerce Commission, shall apply.

"If within the time so fixed in the order of the commission, the person, partnership, or corporation against which the order is made shall not cease and desist from such unfair competition, and if in the meantime such order is not annulled, suspended, or set aside by a court, the commission may bring a suit in equity in a district court in any district wherein such person or persons reside or wherein such corporation has its principal office or place of business to enforce its said order, and jurisdiction is hereby conferred upon said court to hear and determine any such suit and enforce obedience thereto according to the law and rules applicable to suits in equity. All the provisions of the law relating to appeals and advancement for speedy hearing in suits brought to suspend or set aside an order of the Interstate Commerce Commission shall apply in suits brought under this section."

EXECUTIVE SESSION.

Mr. KERN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After 8 minutes spent in executive session, the doors were reopened, and (at 6 o'clock p. m., Monday, July 27, 1914) the Senate took a recess until to-morrow, Tuesday, July 28, 1914, at 11 o'clock a. m.

## NOMINATIONS.

*Executive nominations received by the Senate July 27, 1914.*

COLLECTOR OF INTERNAL REVENUE.

Emanuel J. Doyle, of Grand Rapids, Mich., to be collector of internal revenue for the fourth district of Michigan, in place of George Clapperton, superseded.

UNITED STATES ATTORNEY.

Myron H. Walker, of Grand Rapids, Mich, to be United States attorney, western district of Michigan, vice Edward J. Bowman, appointed by the court.

RECEIVER OF PUBLIC MONEYS.

George G. Beams, of Lincoln, Nebr., to be receiver of public moneys at Lincoln, Nebr., vice William M. Gifford, term expired.

APPOINTMENTS IN THE ARMY.

MEDICAL RESERVE CORPS.

*To be first lieutenant in the Medical Reserve Corps, with rank from July 16, 1914.*

S. Adolphus Knopf, of New York, to correct an error in the name of the nominee.

PROMOTIONS IN THE ARMY.

COAST ARTILLERY CORPS.

Maj. Frank G. Mauldin, Coast Artillery Corps, to be lieutenant colonel from July 25, 1914, vice Lieut. Col. Eugene T. Wilson, retired from active service July 24, 1914.

Capt. James B. Mitchell, Coast Artillery Corps, to be major from July 25, 1914, vice Maj. Frank G. Mauldin, promoted.

First Lieut. Edward E. Farnsworth, Coast Artillery Corps, to be captain from July 25, 1914, vice Capt. James B. Mitchell, promoted.

Second Lieut. Fenelon Cannon, Coast Artillery Corps, to be first lieutenant from July 25, 1914, vice First Lieut. Edward E. Farnsworth, promoted.

Second Lieut. Fredrick E. Kingman, Coast Artillery Corps, to be first lieutenant from July 23, 1914, vice First Lieut. Harold Geiger, detailed in the aviation section of the Signal Corps.

Second Lieut. Simon W. Sperry, Coast Artillery Corps, to be first lieutenant from July 23, 1914, vice First Lieut. Lewis E. Goodier, jr., detailed in the aviation section of the Signal Corps.

Second Lieut. Daniel N. Swan, jr., Coast Artillery Corps, to be first lieutenant from July 23, 1914, vice First Lieut. Hollis Le R. Muller, detailed in the aviation section of the Signal Corps.

Second Lieut. Charles M. Steese, Coast Artillery Corps (detailed first lieutenant in the Ordnance Department), to be first lieutenant from July 23, 1914, vice First Lieut. Townsend F. Dodd, detailed in the aviation section of the Signal Corps.

Second Lieut. Harry W. Stovall, Coast Artillery Corps, to be first lieutenant from July 23, 1914, vice First Lieut. Charles M. Steese, whose detail in the Ordnance Department is continued from that date.

INFANTRY ARM.

Second Lieut. Owen R. Meredith, Twenty-fourth Infantry, to be first lieutenant from July 23, 1914, vice First Lieut. Roy C. Kirtland, unassigned, detailed in the aviation section of the Signal Corps.

Second Lieut. James C. Williams, Ninth Infantry, to be first lieutenant from July 23, 1914, vice First Lieut. Benjamin D. Foulois, Seventh Infantry, detailed in the aviation section of the Signal Corps.

## CONFIRMATIONS.

*Executive nominations confirmed by the Senate July 27, 1914.*

CONSULS.

Benjamin F. Chase to be consul at Fiume, Hungary.
John M. Savage to be consul at Sheffield, England.

POSTMASTERS.

ARKANSAS.

T. E. Haley, Paragould.
Robert B. Lawson, Bigelow.
Lucius Pilkington, Searcy.

ARIZONA.

Ida E. Carty, Fort Huachuca.
E. W. Phillips, Hayden.

Leonard D. Redfield, Benson.
John Towner, Naco.

CALIFORNIA.

Reuben E. Baer, Healdsburg.

FLORIDA.

J. R. Thompson, St. Andrew.
F. C. Wilson, Chipley.

INDIANA.

Levi T. Pennington, Spiceland.

MINNESOTA.

Charles Jesmore, Eveleth.

MISSISSIPPI.

Frances P. McNabb, Drew.

NEW JERSEY.

James L. Ackerman, Ridgefield.

## HOUSE OF REPRESENTATIVES.

### MONDAY, *July 27, 1914.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou God and Father of all, above all, through all, and in us all, lift us, we pray Thee, day by day by Thy presence within to a larger, grander conception of life and its great responsibilities, that we may the more perfectly fulfill our destiny and thus work out our own salvation with fear and trembling through the precepts and example of Jesus Christ, our Lord. Amen.

The Journal of the proceedings of Saturday, July 25, 1914, was read and approved.

The SPEAKER. This is District day——

Mr. JOHNSON of Kentucky. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering District legislation.

MANAGERS NATIONAL HOME FOR DISABLED VOLUNTEERS.

Mr. FOSTER. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Illinois rise?

Mr. FOSTER. To offer a privileged resolution from the Committee on Rules.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 581 (H. Rept. 1024).

The Committee on Rules begs leave to report the following in lieu of House resolution 545:

"*Resolved*, That immediately after the adoption of this resolution the House shall proceed to consider House joint resolution 241; that there shall not be exceeding one hour general debate on the resolution, to be equally divided between those supporting and those opposing the resolution; at the conclusion of such general debate the resolution may be read for amendments, and after consideration of the amendments thereto the previous question shall be considered as ordered on the resolution and amendments to final passage, without intervening motion, except one motion to recommit."

Mr. GARRETT of Tennessee. Will the gentleman yield to me for a moment?

Mr. FOSTER. I will.

CHANGE OF REFERENCE.

Mr. GARRETT of Tennessee. Mr. Speaker, I wanted to call the attention of the Speaker to House resolution No. 576, which was improperly referred to the Committee on Insular Affairs, and which should have been referred to the Committee on Rules.

The SPEAKER. There is no question about it having been referred to the wrong committee.

Mr. MANN. What is the resolution?

Mr. GARRETT of Tennessee. House resolution No. 576, to investigate appointments to and removals from Government service in the Philippine Islands. It was introduced by the gentleman from Minnesota [Mr. MILLER] on Saturday last and was referred to the Committee on Insular Affairs. It clearly should have been referred to the Committee on Rules.

Mr. MANN. For what does it provide?

Mr. GARRETT of Tennessee. It provides for the investigation by a committee of five Members, appointed by the Speaker, into the administration of the civil-service laws of the Philippine Islands, and so forth.

Mr. MANN. Of course, if it provides for the appointment of a special committee——

Mr. GARRETT of Tennessee. It does. The first section of it reads:

*Resolved*, That a committee consisting of five members, each of whom shall be a Member of the House of Representatives, be appointed by the Speaker to investigate and ascertain—

And so forth.

The SPEAKER. Without objection, the change of reference will be made from the Committee on Insular Affairs to the Committee on Rules.

There was no objection.

Mr. MANN. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Illinois [Mr. MANN] makes the point of order that there is no quorum present, and evidently there is not.

Mr. UNDERWOOD. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The roll was called, and the following Members failed to answer to their names:

| | | | |
|---|---|---|---|
| Adair | Difenderfer | Kinkead, N. J. | Roberts, Mass. |
| Aiken | Drukker | Kitchin | Rupley |
| Ainey | Dunn | Knowland, J. R. | Sabath |
| Anthony | Eagan | Kreider | Saunders |
| Ashbrook | Eagle | Lafferty | Scully |
| Aswell | Edmonds | Langham | Sherwood |
| Austin | Edwards | Langley | Shreve |
| Avis | Estopinal | Lazaro | Sinnott |
| Bailey | Fairchild | L'Engle | Slayden |
| Baker | Faison | Lenroot | Smith, Md. |
| Barchfeld | Fess | Lesher | Smith, J. M. C. |
| Bartholdt | Fields | Levy | Smith, N. Y. |
| Bartlett | Frear | Lewis, Pa. | Smith, Tex. |
| Beall, Tex. | Gallagher | Lindquist | Stafford |
| Bell, Ga. | Gallivan | Lobeck | Stanley |
| Borland | Gardner | Loft | Steenerson |
| Brockson | George | McAndrews | Stephens, Miss. |
| Brodbeck | Gerry | McClellan | Stephens, Nebr. |
| Broussard | Gill | McGillicuddy | Stevens, N. H. |
| Brown, N. Y. | Gillett | McGuire, Okla. | Stringer |
| Brown, W. Va. | Glass | McKenzie | Sumners |
| Browne, Wis. | Goeke | McLaughlin | Sutherland |
| Browning | Gorman | Mahan | Switzer |
| Bulkley | Graham, Pa. | Martin | Taggart |
| Burke, Pa. | Green, Iowa | Merritt | Talbott, Md. |
| Butler | Greene, Mass. | Montague | Taylor, N. Y. |
| Byrnes, S. C. | Griest | Moore | Temple |
| Byrns, Tenn. | Gudger | Morgan, La. | Thomas |
| Calder | Hamill | Morin | Thompson, Okla. |
| Callaway | Hamilton, Mich. | Moss, W. Va. | Townsend |
| Cantor | Hamilton, N. Y. | Mott | Underhill |
| Cantrill | Hardwick | Murray, Mass. | Vare |
| Carlin | Haugen | Murray, Okla. | Vaughan |
| Carter | Hayes | Neeley, Kans. | Vollmer |
| Cary | Henry | O'Shaunessy | Wallin |
| Chandler, N. Y. | Hinds | Padgett | Walsh |
| Church | Hinebaugh | Paige, Mass. | Walters |
| Clark, Fla. | Hobson | Palmer | Watson |
| Connelly, Kans. | Holland | Parker | Weaver |
| Connolly, Iowa. | Houston | Peters, Mass. | Whaley |
| Copley | Hoxworth | Phelan | Whitacre |
| Covington | Hughes, Ga. | Platt | White |
| Crisp | Hughes, W. Va. | Porter | Willis |
| Crosser | Humphreys, Miss. | Powers | Winslow |
| Curry | Jacoway | Prouty | Young, Tex. |
| Davenport | Johnson, S. C. | Ragsdale | |
| Deitrick | Jones | Rauch | |
| Dershem | Key, Ohio | Rayburn | |
| Dies | Kiess, Pa. | Reilly, Conn. | |

The SPEAKER. On this roll call, 239 Members have answered—a quorum.

Mr. UNDERWOOD. Mr. Speaker, I move that further proceedings under the call be dispensed with.

The SPEAKER. The gentleman from Alabama moves that further proceedings under the call be dispensed with. The question is on agreeing to that motion.

The motion was agreed to.

The SPEAKER. The Doorkeeper will open the doors.

MANAGERS NATIONAL HOME FOR DISABLED VOLUNTEERS.

The SPEAKER. The Clerk will report the resolution sent up by the gentleman from Illinois [Mr. FOSTER].

The Clerk read as follows:

*Resolved*, That immediately after the adoption of this resolution the House shall proceed to consider House joint resolution 241; that there shall not be exceeding one hour general debate on the resolution, to be equally divided between those supporting and those opposing the resolution; at the conclusion of such general debate the resolution may be read for amendments, and after consideration of the amendments thereto the previous question shall be considered as ordered on the resolution, and amendments to final passage, without intervening motion except one motion to recommit.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had still further insisted upon its amendment No. 158 to the bill (H. R. 17824) making appropria-

tions to supply deficiencies in appropriations for the fiscal year 1914 and for prior years, and for other purposes, disagreed to by the House of Representatives, had agreed to the further conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. MARTIN of Virginia, Mr. BRYAN, and Mr. GALLINGER as the conferees on the part of the Senate.

The message also announced that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. 5899) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, had asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHNSON, Mr. HUGHES, and Mr. SMOOT as the conferees on the part of the Senate.

The message also announced that the Senate had disagreed to the amendments of the House to bills of the following titles, had asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHNSON, Mr. HUGHES, and Mr. SMOOT as the conferees on the part of the Senate:

S. 5501. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

S. 4969. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors; and

S. 5278. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The message also announced that the Senate had passed the following resolutions:

*Resolved*, That the Senate has heard with deep regret the announcement of the death of Hon. SEABORN ANDERSON RODDENBERY, late a Representative from the State of Georgia, which occurred September 26, 1913.

*Resolved*, That as a mark of respect to the memory of the deceased Representative the business of the Senate be now suspended in order to pay proper tribute to his high character and distinguished public services.

*Resolved*, That the Secretary communicate a copy of these resolutions to the House of Representatives and to the family of the deceased.

The message also announced that the Senate had passed, without amendment, bill of the following title:

H. R. 15110. An act authorizing the Secretary of the Treasury to accept conveyance of title to certain land between the post-office site and Madison Street in the city of Thomasville, Ga.

### INDIAN APPROPRIATION BILL—CONFERENCE REPORT.

Mr. STEPHENS of Texas. Mr. Speaker, pending that motion, I desire to call up the conference report on the Indian appropriation bill, H. R. 12579, and ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. Pending the consideration of this resolution, the gentleman from Texas calls up the conference report on the Indian appropriation bill and asks that the statement be read in lieu of the report. Is there objection?

There was no objection.

Mr. STEPHENS of Texas. The Clerk will find the statement on page 16 of the report.

The SPEAKER. The Clerk will read the statement.

The statement was read.

The conference report and statement are as follows:

### CONFERENCE REPORT (NO. 1007).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 12579) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1915, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 18, 21, 30, 31, 33, 40, 43, 44, 47, 51, 52, 54, 55, 57, 60, 74, 75, 76, 77, 78, 79, 80, 87, 89, 90, 91, 93, 95, 96, 101, 102, 103, 107, 109, 110, 112, 113, 114, 115, 119, 127, 133, 135, 137, 142, 143, 146, 151, 153, 157, 164, 166, and 167.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, 8, 9, 10, 11, 14, 15, 17, 20, 26, 34, 36, 42, 45, 49, 56, 61, 62, 63, 67, 83, 84, 85, 86, 94, 111, 117, 118, 120, 121, 124, 128, 129, 130, 141, 148, 150, 156, 158, 165, and 168, and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows: In lieu of the matter proposed insert the following:

"For the survey, resurvey, classification and allotment of lands in severalty under the provisions of the act of February 8, 1887 (24 Stat. L., p. 388), entitled 'An act to provide for the allotment of lands in severalty to Indians,' and under any other act or acts providing for the survey or allotment of Indian lands, $150,000, to be repaid proportionately out of any Indian moneys held in trust or otherwise by the United States and available by law for such reimbursable purposes and to remain available until expended: *Provided*, That hereafter no part of said sum shall be used for the survey, resurvey, classification, or allotment of any land in severalty on the public domain to any Indian, whether of the Navajo or other tribes, within the State of New Mexico and the State of Arizona, who was not residing upon the public domain prior to June 30, 1914: *Provided further*, That the surveys shall be made in accordance with the provisions for the survey and resurveys of public lands, including traveling expenses and per diem allowances in lieu of subsistence to those employed thereon."

And the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows: In line 15 of the proposed amendment, after the word "project," strike out the period, insert a colon, and add the following: "*Provided further*, That in addition to what is herein required there shall be submitted to Congress on the first Monday in December, 1914, as to the Uintah, Shoshone, Flathead, Blackfeet, and Fort Peck reclamation projects, a report showing the status of the water rights of the Indians and the method of financing said projects, together with such other information as the Secretary of the Interior may deem necessary for a full and complete understanding of all the facts and conditions in connection therewith"; and the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment as follows: In lieu of the matter proposed insert the following: "$300,000: *Provided*, That not to exceed $3,500 of the amount herein appropriated may be expended for the purchase of improvements on land to be deeded to the Government by the school board of district No. 57, State of Idaho"; and the Senate agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment as follows: In lieu of the matter stricken out insert the following: "*Provided further*, That not to exceed $100,000 of the amount herein appropriated may be expended in the erection and equipment of hospitals for the use of Indians; and no hospital shall be constructed at a cost to exceed $15,000, including equipment"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows: In line 1 of the amendment proposed, after the word "including," insert the word "for"; in line 2 of the amendment proposed, after the word "children," insert the words "not to exceed $40,000"; in lieu of the sum proposed insert "$1,550,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$440,000"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$450,000"; and the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment as follows: In lieu of the matter stricken out insert the following: "*Provided*, That after the passage of this act no part of the sum hereby appropriated shall be used for the maintenance of to exceed three permanent warehouses in the Indian Service"; and the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows: In line 3 of

the amendment proposed, after the word "confinement," insert the following: "on an Indian reservation or at an Indian school"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$135,000"; and the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment as follows: In line 5 of the amendment, after the word "the," strike out the words "Commissioner of Indian Affairs" and insert in lieu thereof the words "Secretary of the Interior"; in line 22 of the amendment strike out the figures "$10" and insert in lieu the figures "$15"; in line 28 of the amendment, after the word "the," strike out down to and including the word "compel," in line 23, and insert in lieu thereof the following: "authority delegated to judges of the United States courts by section 4908 of the Revised Statutes is hereby conferred upon the Secretary of the Interior to require"; and the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$600,000"; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment as follows: In lieu of the matter stricken out insert the following: "*And provided also*, That not to exceed $75,000 of the amount herein appropriated shall be expended on any one reservation or for the benefit of any one tribe of Indians"; and the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment as follows: Strike out all of the proposed amendment, and in lieu thereof, on page 6 of the bill, line 25, after the word "schools," strike out the period, insert a colon, and add the following: "*And provided further*, That $50,000 of the amount herein appropriated, in addition to any other funds available for that purpose, shall be used to provide school facilities for the children of the Papago Tribe of Indians in Arizona"; and the Senate agree to the same.

Amendment numbered 35: That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment as follows: In line 9 of the amendment proposed, after the word "have," insert the following: "approved the plans of said bridge and"; and the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$25,000"; and the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment as follows: In line 3 of the amendment proposed, after the figures "$20,000," strike out the words "to be immediately available and"; and the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment as follows: In line 4 of the proposed amendment, after the word "the," strike out the words "San Carlos and"; and in line 5 of the proposed amendment, after the word "Indian," strike out the word "Reservations" and insert in lieu thereof the word "Reservation"; and the Senate agree to the same.

Amendment numbered 46: That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$108,125"; and the Senate agree to the same.

Amendment numbered 48: That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$118,125"; and the Senate agree to the same.

Amendment numbered 50: That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment as follows: In lieu of the amendment insert the following: "$20,500; for repairs and improvements, $3,600; in all, $24,100"; and the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$25,000"; and the Senate agree to the same.

Amendment numbered 58: That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment as follows: In line 4 of the proposed amendment, after the word "improvements," strike out the figures "$13,500" and insert the figures "$11,000"; in line 5 of the proposed amendment, after the word "equipment," strike out the figures "$30,000" and insert in lieu thereof the figures "$25,000"; in line 5 of the amendment, after the word "all," strike out the figures "$171,250" and insert in lieu thereof the figures "$163,750"; and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows: In line 4 of the proposed amendment, after the word "improvements," strike out the figures "$6,000" and insert in lieu thereof the figures "$5,000"; in line 5 of the proposed amendment, after the word "equipment," strike out the figures "$25,000" and insert in lieu thereof the figures "$20,000"; in line 6 of the proposed amendment, after the word "all," strike out the figures "$91,450" and insert in lieu thereof the figures "$85,450"; and the Senate agree to the same.

Amendment numbered 64: That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment as follows: Strike out all of the amendment proposed and in lieu thereof insert the following:

"For the payment of high-school teachers at the White Earth Indian School, Minnesota, for instruction of children of the Chippewa Indians in the State of Minnesota, $4,000, or so much thereof as may be necessary, the said sum to be reimbursable and to be used under rules to be prescribed by the Secretary of the Interior: *Provided*, That not to exceed $1,000 of this sum may be used to continue the education of boys appointed under the provisions of the act of Congress entitled 'An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914,' approved June 30, 1913."

And the Senate agree to the same.

Amendment numbered 65: That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$205,000"; and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$40,000"; and the Senate agree to the same.

Amendment numbered 68: That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment as follows: In line 2 of the proposed amendment, after the word "That," strike out all down to and including the word "necessary," in line 3, and insert in lieu thereof the following: "not to exceed $5,000 of the amount herein appropriated"; and the Senate agree to the same.

Amendment numbered 69: That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment as follows: In line 5 of the proposed amendment, after the word "by," strike out the word "a"; in line 6 of the proposed amendment, after the word "deed," strike out all down to and including the word "therein," in line 8, and insert in lieu thereof the following: "with a condition that the children of the Chippewa Indians of Minnesota shall have the privilege of attending at all times the school maintained therein on the same basis as white children attend the said school"; and the Senate agree to the same.

Amendment numbered 70: That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment as follows: In lieu of the matter proposed insert the following: "*Provided*, That any persons who were residing upon said land on January 1, 1914, shall not be required to remove therefrom except upon terms approved by the Secretary of the Interior"; and the Senate agree to the same.

Amendment numbered 71: That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment as follows: In line 9 of

the proposed amendment, after the word "the," strike out the words "duly elected"; in line 12, after the word "thirteen," strike out the balance of the matter proposed; and the Senate agree to the same.

Amendment numbered 72: That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to approve the assessments, together with maps showing right of way and definite location of proposed drainage ditches made under the laws of the State of Minnesota upon the tribal and allotted lands of the Fond du Lac Indian Reservation, Minn., in Carlton County judicial ditch No. 1. That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to pay the amount assessed against said allotted and tribal lands. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $13,080, to be reimbursable from any funds belonging to the individual allottees or their heirs or from any funds belonging to the tribe subject to be prorated, in the discretion of the Secretary of the Interior. That the Secretary of the Interior be, and he is hereby, authorized to approve deeds for right of way from such said allottees or their heirs as may be necessary to permit the construction and maintenance of said drainage ditch upon the payment of adequate damages therefor: *Provided*, That no patent in fee shall be issued for any tract of land under the terms of this paragraph until the United States shall have been wholly reimbursed for all assessments paid or to be paid on such tract under the terms hereof. That the Secretary of the Interior is hereby authorized to do and perform any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions hereof into force and effect."

And the Senate agree to the same.

Amendment numbered 73: That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment as follows: In line 4 of the amendment proposed, after the word "tribe," strike out the words "to be"; in line 5 of the amendment proposed, after the word "Minnesota," strike out the words "the second Tuesday"; and the Senate agree to the same.

Amendment numbered 88: That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"There is hereby appropriated the sum of $25,000, out of any money in the Treasury not otherwise appropriated, or so much thereof as may be necessary, for the purpose of purchasing cattle for the benefit of the Northern Cheyenne Indians: *Provided*, That said sum shall be expended under conditions to be prescribed by the Secretary of the Interior for its repayment to the United States on or before June 30, 1925: *Provided further*, That the Secretary of the Interior shall submit to Congress annually on the first Monday in December a detailed statement as to the expenditure of this fund."

And the Senate agree to the same.

Amendment numbered 92: That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"SEC. 10. For support and education of 375 Indian pupils at the Indian School at Genoa, Nebr., including pay of superintendent, $60,000; for general repairs and improvements, $4,500; for new laundry building and equipment, $4,000; for repairs and addition to hospital, $4,000; dairy barn, $6,000; for lavatory annex, $2,500; for industrial building for girls, $4,000; in all, $85,000."

And the Senate agree to the same.

Amendment numbered 97: That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$8,000"; and the Senate agree to the same.

Amendment numbered 98: That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$58,100"; and the Senate agree to the same.

Amendment numbered 99: That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment as follows: In line 4 of the proposed amendment strike out the figures "$8,000" and insert in lieu thereof the figures "$5,000"; in line 5 strike out the figures "$30,000" and insert in lieu thereof the figures "$25,000"; and in line 6 strike out the figures "$106,600" and insert in lieu thereof the figures "$98,600"; and the Senate agree to the same.

Amendment numbered 100: That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment as follows: In line 3 of the proposed amendment strike out the figures "$60,250" and insert in lieu thereof the figures "$59,550"; in line 4 of the amendment strike out the figures "$7,000" and insert in lieu thereof the figures "$6,000"; and in line 5 of the amendment strike out the figures "$72,850" and insert in lieu thereof the figures "$71,150"; and the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"That the Secretary of the Interior is hereby authorized, within his discretion, to grant and convey to the Bismarck Water Supply Co., a corporation organized and existing under the laws of the State of West Virginia, an easement or right of way for use for pumping station and for other necessary buildings, railroad tracks, mains, water pipes, and wells on lands appertaining to the Indian school, Bismarck, N. Dak., and now occupied by said Bismarck Water Supply Co., for the purpose of pumping water from the Missouri River to its reservoir and to supply its patrons with water, such grant to be made upon such conditions as the Secretary of the Interior shall prescribe, and such easement to continue so long as used for the aforesaid purposes."

And the Senate agree to the same.

Amendment numbered 105: That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment as follows: In line 4 of the amendment proposed strike out the figures "$6,000" and insert in lieu thereof the figures "$5,000"; and in line 5 of the amendment proposed strike out the figures "$8,000" and insert the figures "$6,000"; and in line 5 of the amendment proposed strike out the figures "$82,500" and insert in lieu thereof the figures "$79,500"; and the Senate agree to the same.

Amendment numbered 106: That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"For support and education of 200 Indian pupils at the Indian School, Wahpeton, N. Dak., and pay of superintendent, $35,200; for general repairs and improvements, $3,000; for extension of power plant, improvement of water system and addition to power plant, $15,000; in all, $53,200."

And the Senate agree to the same.

Amendment numbered 108: That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment as follows: In lieu of the matter proposed insert the following:

"That the Secretary of the Interior be, and he is hereby, authorized to withdraw from the Treasury of the United States, not to exceed the sum of $100,000, or so much thereof as may be necessary, of the principal sum on deposit to the credit of the Indians on the Standing Rock Indian Reservation, in North Dakota and South Dakota, for the purpose of purchasing cattle for the use of said Indains to enable them to become self-supporting: *Provided*, That said sum shall be expended under conditions to be prescribed by the Secretary of the Interior for its repayment and placed into the Treasury to the credit of the said tribe on or before June 30, 1925: *Provided further*, That the Secretary of the Interior shall submit to Congress annually on the first Monday in December a detailed statement as to the expenditure of this fund."

And the Senate agree to the same.

Amendment numbered 116: That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"That the Secretary of the Interior be, and he is hereby, authorized to contract for water rights for the irrigation of not to exceed 600 acres of land in the Fort Sill Indian School Reservation in the State of Oklahoma, within the proposed Lawton reclamation project, for the irrigation of not to exceed 2,500 acres of Indian and private lands, upon the same terms and conditions as those prescribed for the acquisition of water rights for other lands to be irrigated by said project: *Provided*, That operation and maintenance charges shall not be assessed against said Indian land prior to the completion of the lateral system so as to provide for actual delivery of water thereto, and the project shall include lateral construction for the Indian lands down to each legal subdivision thereof equal in area to the size

of the farm unit for lands in private ownership within said project."

And the Senate agree to the same.

Amendment numbered 122: That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$175,000"; and the Senate agree to the same.

Amendment numbered 123: That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment as follows: In line 1 of the amendment, after the word "effective," strike out the words "July 1" and insert in lieu thereof the words "September 1"; and the Senate agree to the same.

Amendment numbered 125: That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following: "$15,000: *Provided*, That $8,000 of this amount may be used for the purchase of additional land, not to exceed 80 acres"; and the Senate agree to the same.

Amendment numbered 126: That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with an amendment as follows: After the figures "$50,000," in line 1 of the amendment, strike out the colon and insert a period; strike out the proviso in lines 1, 2, 3, 4, and 5 of the amendment; and the Senate agree to the same.

Amendment numbered 131: That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment as follows: In line 1 of the proposed amendment strike out the words "Commissioner of Indian Affairs" and insert in lieu thereof the words "Secretary of the Interior"; in line 25 of the proposed amendment, after the word "lands," strike out the period, insert a colon, and add the following: "*Provided further*, That any contract or contracts made by the Creek Nation or any individual member thereof, with any attorney or attorneys, providing for the payment of any amount for services in connection with the Creek equalization, shall be void and have no force or effect unless the same shall have been executed and approved in accordance with the law in existence at the time of the making of such contract with relation to contracts with Indians: *And provided further*, That the money paid to allottees as provided herein shall be exempt from any lien for attorneys' fees or other debt contracted prior to the passage of this act"; and the Senate agree to the same.

Amendment numbered 132: That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment as follows: In line 7 of the amendment proposed, after the word "thereon," strike out the colon and the following: "*Provided*, That $10,000 of the amount above appropriated shall be immediately available"; and the Senate agree to the same.

Amendment numbered 134: That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment as follows: Strike out the first two words of the proposed amendment, "*And provided*," and insert in lieu thereof the word "*Provided*"; and the Senate agree to the same.

Amendment numbered 136: That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment as follows: In line 5 of the proposed amendment, after the word "session," strike out the period, insert a colon, and add the following: "*Provided*, That when so enrolled there shall be paid to each and every such person out of the funds in the Treasury of the United States to the credit of the respective tribe with which such person is enrolled the following sums in lieu of an allotment of land: To each such person placed on the Creek rolls the sum of $800; to each such person placed on the Choctaw, Chickasaw, Cherokee, and Seminole rolls, a sum equal to twice the appraised value of the allotment of such tribe as fixed by the Commission to the Five Civilized Tribes for allotment purposes: *Provided further*, That in cases where such enrolled members, or their heirs, are Indians who by reason of their degree of Indian blood belong to the restricted class, the Secretary of the Interior may, in his discretion, withhold such payments and use the same for the benefit of such restricted Indian: *And provided further*, That the Secretary of the Interior is authorized, under such rules and regulations as he may prescribe, to determine whether any attorney or attorneys have actually rendered services of value to any of the persons herein enrolled, and to allow compensation therefor, including proper and necessary expenses incurred in connection with services rendered, in such amounts as he may deem proper, and to pay the amount so fixed and found to be due such attorney or attorneys and deduct the same from the amount paid to the person enrolled as herein authorized, by and with his consent and approval: *Provided*, That before payment is made to any attorney or attorneys there shall be filed a receipt in full of all claims or demands on the part of such attorney or attorneys in such form as may be prescribed by the Secretary of the Interior"; and the Senate agree to the same.

Amendment numbered 138: That the House recede from its disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment as follows: In line 1 of the proposed amendment strike out the words "Commissioner of Indian Affairs" and insert in lieu thereof the words "Secretary of the Interior"; and the Senate agree to the same.

Amendment numbered 144: That the House recede from its disagreement to the amendment of the Senate numbered 144, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert, on page 31, line 2, as a separate paragraph, the following:

"The Secretary of the Interior is authorized, in his discretion, to grant a further extension or extensions of time on the payments described in the act entitled 'An act authorizing the Secretary of the Interior to subdivide and extend the deferred payments of settlers in the Kiowa-Comanche and Apache ceded lands in Oklahoma,' approved April 27, 1912: *Provided*, That accrued and unpaid interest shall be treated as principal: *Provided further*, That no payment shall be deferred beyond the time prescribed in the act herein cited, and no forfeiture of entry shall be declared except for fraud."

And the Senate agree to the same.

Amendment numbered 145: That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following: "for addition to assembly hall, $10,000; in all, $124,000"; and the Senate agree to the same.

Amendment numbered 147: That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment as follows: In line 7 of the proposed amendment, after the figures "$10,000," strike out all down to and including the word "available," in line 8; and the Senate agree to the same.

Amendment numbered 149: That the House recede from its disagreement to the amendment of the Senate numbered 149, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$37,500"; and the Senate agree to the same.

Amendment numbered 152: That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment as follows: In lieu of the matter proposed by this amendment insert the following:

"The Secretary of the Interior is hereby authorized to withdraw from the Treasury of the United States, within his discretion, the sum of $300,000 of the principal funds to the credit of the Confederated Bands of Ute Indians and to expend the sum of $100,000 of said amount for the benefit of the Navajo Springs Band of said Indians in Colorado, and the sum of $200,000 of said amount for the Uintah, White River, and Uncompahgre Bands of Ute Indians in Utah, which sums shall be charged to said bands, and the Secretary of the Interior is also authorized to withdraw from the Treasury the accrued interest to and including June 30, 1914, on the funds of the said Confederated Bands of Ute Indians appropriated under the act of March 4, 1913 (37 Stats. L., 934), and to expend or distribute the same for the purpose of promoting civilization and self-support among the said Indians, under such regulations as the Secretary of the Interior may prescribe: *Provided*, That the said Secretary of the Interior shall report to Congress on the first Monday in December, 1915, a detailed statement as to all moneys expended as provided for herein."

And the Senate agree to the same.

Amendment numbered 154: That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following: "To enable the Secretary of the Interior to protect the north abutment of the bridge at Myton, on the Uintah Indian Reservation, Utah, from high water, $200"; and the Senate agree to the same.

Amendment numbered 159: That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert "$5,000; in all, $41,670"; and the Senate agree to the same.

Amendment numbered 160: That the House recede from its disagreement to the amendment of the Senate numbered 160, and

agree to the same with an amendment as follows: In line 1 of the proposed amendment, after the word "building," strike out the figures "$15,000" and insert in lieu thereof the figures "$10,000"; in line 2 of the proposed amendment, after the word "all," strike out the figures "$64,450" and insert in lieu thereof the figures "$59,450"; and the Senate agree to the same.

Amendment numbered 161: That the House recede from its disagreement to the amendment of the Senate numbered 161, and agree to the same with an amendment as follows: In line 29 of the amendment proposed, after the word "patent," strike out the period and insert a colon and the following: "*Provided further*, That any land disposed of hereunder shall be subject to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country until otherwise provided by Congress"; and in line 31 of the amendment proposed, after the word "timber," strike out the words "on all unallotted lands" and insert the following: "on all lands allotted under the provisions of this act"; and in line 46 of the amendment proposed, after the word "said," strike out the word "tribal"; and in line 48 of the amendment proposed strike out the word "unallotted" and after word "Band" insert the following: "entitled to allotment hereunder" and a comma; and at the end of the said amendment, after the word "prescribe," strike out the period and insert a colon and the following: "*Provided*, That no sawmill shall be constructed at a cost to exceed $5,000"; and the Senate agree to the same.

Amendment numbered 162: That the House recede from its disagreement to the amendment of the Senate numbered 162, and agree to the same with an amendment as follows: In line 21 of the proposed amendment, after the word "necessary," strike out all down to and including the word "act" in line 29; and the Senate agree to the same.

Amendment numbered 163: That the House recede from its disagreement to the amendment of the Senate numbered 163, and agree to the same with an amendment as follows: In line 17 of the proposed amendment, after the word "issue," insert the word "trust," and in line 18, after the word "patents," insert the following: "as provided by the act of February 8, 1887, entitled 'An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes'"; and the Senate agree to the same.

The committee of conference have been unable to agree on the amendments of the Senate numbered 23, 37, 81, 82, 139, and 155.

JNO. H. STEPHENS,
C. D. CARTER,
CHAS. H. BURKE,
*Managers on the part of the House.*

HENRY F. ASHURST,
MOSES E. CLAPP,
*Managers on the part of the Senate.*

STATEMENT.

The bill as it passed the House carried appropriations as follows:

| | |
|---|---|
| Gratuity | $6,373,129.66 |
| Reimbursable | 1,314,440.00 |
| Treaty | 850,560.00 |
| Trust funds | 988,000.00 |
| | 9,526,129.66 |

The bill as it passed the Senate carried appropriations as follows:

| | |
|---|---|
| Gratuity | $7,436,897.76 |
| Reimbursable | 2,033,020.00 |
| Treaty | 855,560.00 |
| Trust funds | 1,586,999.07 |
| | 11,912,476.83 |

The bill as agreed upon in conference carries appropriations as follows:

| | |
|---|---|
| Gratuity | $7,028,227.76 |
| Reimbursable | 1,571,520.00 |
| Treaty | 850,560.00 |
| Trust funds | 1,567,816.65 |
| | 11,018,124.41 |

The above figures do not include amendments Nos. 23, 37, 81, 82, 139, and 155, which are in disagreement.

The estimates for the fiscal year ending June 30, 1915, were $11,784,865.06. The bill as agreed upon in conference (outside of the amendments above enumerated on which there is a disagreement) is $766,740.65 less than the estimates of the department and $894,352.42 less than the bill carried when it passed the Senate.

The Senate conferees have receded on the following amendments: 18, 21, 30, 31, 33, 40, 43, 44, 47, 51, 52, 54, 55, 57, 60, 74, 75, 76, 77, 78, 79, 80, 87, 89, 90, 91, 93, 95, 96, 101, 102, 103, 107, 109, 110, 112, 113, 114, 115, 119, 127, 133, 135, 137, 142, 143, 146, 151, 153, 157, 164, 166, and 167.

The House conferees have receded unqualifiedly on the following amendments: 1, 5, 8, 9, 10, 11, 14, 15, 17, 20, 26, 34, 36, 42, 45, 49, 56, 61, 62, 63, 67, 83, 84, 85, 86, 94, 111, 117, 118, 120, 121, 124, 128, 129, 130, 141, 148, 150, 156, 158, 165, and 168.

The effect of the recession of the House conferees on the amendments on which they have unqualifiedly receded is as follows:

No. 1. This amendment was considered in connection with amendment No. 2, and by the adoption of amendment No. 2 it is eliminated.

No. 5. Corrects the language.

No. 8. Requires physicians employed in the Indian Service to be under civil-service rules and regulations.

Nos. 9, 10, and 11. Corrects the language of the bill in accordance with the powers conferred on the Secretary of the Interior to quarantine afflicted Indians.

No. 14. Corrects the language.

No. 15. Corrects the language with the intent of the paragraph so as to avoid future complications with the Comptroller of the Treasury.

No. 17. Correction of punctuation.

No. 20. Includes experimenting with cotton for the benefit of Indians.

No. 26. Provides for the employment of six additional inspectors.

No. 34. Sets aside certain land as a school farm for the Fort Yuma Indian School.

No. 36. Eliminates an investigation as to the building of a bridge across the Colorado River, Fort Mohave Reservation, Ariz.

No. 42. Provides for an investigation as to the feasibility of building the San Carlos irrigation project.

No. 45. Provides for 25 additional pupils at the Sherman Institute, Riverside, Cal.

No. 49. Provides for 25 additional pupils at the Fort Bidwell Indian School, California.

No. 56. Is to reimburse M. D. Colgrove for expenses incurred in connection with the retention of an Indian charged with murder.

No. 61. Pays certain attorneys fees for services rendered.

No. 62. Provides for certain repairs and equipment at the Pipestone School, Minnesota, destroyed or damaged by a tornado.

No. 63. Corrects the total appropriation for this school.

No. 67. Provides for the purchase of lands for homeless Mille Lac Indians to whom allotments have not heretofore been made.

Nos. 83 and 84. Strike out certain language and do not change the intent of the act.

No. 85. Provides for the allotment to children on the Fort Peck Reservation entitled thereto.

No. 86. Provides for the payment of tuition for Indian children who attended school in Flathead County, Mont.

No. 94. Provides for per capita payments to the Sac and Fox Indians after certain expenses have been paid.

No. 111. Is for the purpose of acquiring school sites on restricted Indian lands under the jurisdiction of the Quapaw Agency, Okla.

No. 117. To reimburse a former superintendent of the Armstrong Academy, Oklahoma, for furniture bought from his private funds and used by that school, payable from Choctaw tribal funds.

No. 118. For the purchase from Chickasaw tribal funds of certain property to be used as a boarding school for the Chickasaw Indians.

No. 120. Provides for the sale of the surface of a certain tract of land to the State of Oklahoma for military purposes.

No. 121. Is to reimburse William Volz for horse hire furnished the agency physician.

No. 124. Provides for the conveyance and purchase of additional lands for the Dwight Mission School, in Oklahoma.

No. 128. Corrects the language.

No. 129. Includes school facilities for the Osage Nation of Indians.

No. 130. Includes school facilities for the Quapaw Indians.

No. 141. Provides for the employment of six additional oil inspectors to prevent waste and for the protection of restricted Indians.

No. 148. Provides for the purchase of additional land for the Pierre Indian School.

No. 150. Provides for an investigation as to the necessity and practicability of constructing a wagon road through the Standing Rock Indian Reservation, S. Dak.

No. 156. Eliminates the extension and provides for the maintenance of the irrigation system on lands allotted to Yakima Indians in Washington.

No. 158. Provides for the issuance of a patent in fee for certain lands heretofore purchased.

No. 165. Is to reimburse Rev. M. S. Thomas for moneys expended in repairs on the Wind River Reservation, Wyo., and permission to remove a barn from said reservation.

No. 168. Repeals section 28 of the Indian appropriation act of June 30, 1913, requiring certain changes in the method of bookkeeping in the Indian Bureau, city of Washington.

On the following amendments the House conferees receded with modifying or substitute amendments:

No. 2. Reduces the appropriation to the amount allowed by the House; prevents the allotment of lands to Indians on the public domain in the States of Arizona and New Mexico (as carried in last year's appropriation act) and eliminates the employment of additional clerks in the Indian Bureau in the city of Washington.

No. 3. Provides for an annual detailed statement to be rendered to Congress as to irrigation appropriations, and also provides for a detailed report as to certain specified projects on the commencement of the next session of Congress.

No. 4. A decrease from $310,000 to $300,000 to relieve distress among Indians, and provides for the purchase of improvements on land to be deeded to the Government at Fort Lapwai, Idaho.

No. 7. Reinstates the House language and increases the amount that may be expended for the erection of hospitals for the treatment of Indians.

No. 12. Increases the general day and industrial school fund from $1,500,000 to $1,550,000, and provides $40,000 thereof for the support and education of deaf, dumb, and blind Indian children.

No. 16. Decreases the amount allowed by the Senate for the construction, lease, and repair of school and agency buildings from $480,000 to $440,000.

No. 19. Decreases the amount allowed by the Senate for industrial work and care of timber from $500,000 to $450,000.

No. 22. Provides that after the passage of this act not to exceed three permanent warehouses shall be maintained in the Indian Service.

No. 24. Requires a report to be made whenever an Indian is incarcerated in an agency jail or other place of confinement on an Indian reservation.

No. 25. Provides for an increased appropriation from $125,000 to $135,000 for the pay of special agents in the Indian Service and for employees not specifically provided for.

No. 27. Provides for determining the heirs of deceased Indian allottees, assesses a certain amount against the estate to cover the cost of such work, and gives the Secretary of the Interior authority to require the attendance of witnesses.

No. 28. Increases the lump-sum appropriation for the purpose of encouraging industry among the Indians and to aid them in becoming self-supporting from $100,000 to $600,000, at the same time decreasing the amount allowed by the Senate in special items throughout the bill for this purpose, $400,000.

No. 29. Limits the amount that may be used of the preceding appropriation at any one reservation.

No. 32. Provides school facilities out of the lump-sum appropriation for the Papago Tribe of Indians.

No. 35. Appropriates $25,000 for the payment of one-third of the cost of the construction of a bridge across the Colorado River at or near Topock, Ariz.

No. 38. Decreases the Senate appropriation from $50,000 to $25,000 for the development of the water supply of the Navajo Indians.

No. 39. Provides for the purchase of lands for the Camp Verde Indian School.

No. 41. Corrects a mistake in the Indian appropriation act, approved June 30, 1913.

No. 46. Provides for the support and education of 25 additional pupils at the Sherman Institute, Riverside, Cal.

No. 48. Corrects the totals caused by amendment No. 46.

No. 50. Provides for the support and education of 25 additional Indian pupils at the Fort Bidwell School, California.

No. 53. Decreases the Senate appropriation from $40,000 to $25,000 for the maintenance and operation of the Fort Hall irrigation system.

No. 58. Reduces the repairs and improvements from $13,000 to $11,000 and authorizes the building and equipment of a gymnasium at the Haskell Indian School, Lawrence, Kans., at a cost of $25,000.

No. 59. Decreases the repairs and improvements from $6,000 to $5,000 and provides $20,000 for a gymnasium and manual training building and equipment at the Indian school, Mount Pleasant, Mich.

No. 64. Provides for the employment of high-school teachers to instruct the children of the Chippewa Indians in Minnesota.

No. 65. Increases from $173,500 to $205,000 the amount that may be withdrawn from tribal funds belonging to the Chippewa Indians in Minnesota for the purpose of teaching them self-support and civilization.

No. 66. Provides that not to exceed $40,000 of the amount appropriated in amendment No. 65 may be used in the purchase of lands for homeless Mille Lac Indians, to whom allotments have not heretofore been made.

No. 68. Provides that not to exceed $5,000 of the amount appropriated in amendment No. 65 may be used for the removal and reinterment of the bodies of Chippewa Indians buried near Wisconsin Point, Wis.

No. 69. Provides for the transfer of a building and not exceeding 3 acres of land at Bena, Minn., to the village of Bena for school purposes, and provides that Indian children shall have free access to the school maintained therein at all times.

No. 70. Provides that persons who were residing on certain land to be transferred to the Northern Minnesota Conference of the Methodist Episcopal Church, on January 1, 1914, shall not be required to remove except upon terms to be approved by the Secretary of the Interior.

No. 71. Provides $1,500 from the tribal funds of the Chippewa Indians of Minnesota for the purpose of paying the expenses of delegates of said tribe to Washington.

No. 72. Provides for the approval and payment of the drainage assessments as required by the laws of the State of Minnesota on the allotted and tribal lands of the Fond du Lac Indian Reservation, Minn.

No. 73. Provides for the payment of the expenses of a general council of the Chippewa Indians in Minnesota from their tribal funds.

No. 88. Appropriates $25,000 from the funds of the Northern Cheyenne Indians for the purpose of purchasing cattle for their benefit.

No. 92. Reinstates the provisions of the paragraph as to the Genoa Indian school, Nebraska, as it passed the House, and in addition appropriates $2,500 for a lavatory annex and $4,000 for an industrial building for girls, and corrects the totals.

No. 97. Decreases the Senate appropriation from $10,000 to $8,000 for general repairs and improvements at the Carson City Indian School, Nevada.

No. 98. Corrects the totals as per amendment No. 97.

No. 99. Reinstates the House provisions as to the Albuquerque Indian school and provides $25,000 for the erection of an assembly hall and gymnasium.

No. 100. Reinstates the House provision as to the Santa Fe Indian school, and corrects a total in the paragraph as it passed the House.

No. 104. Provides for the conveyance of 1⅛ acres of the lands belonging to the Bismarck Indian school, North Dakota, to the Bismarck Water Supply Co. for use for a pumping station.

No. 105. Reinstates the House provision as to the Fort Totten Indian school, North Dakota, and provides $5,000 for the building of a dairy barn at said school.

No. 106. Reinstates the House provision as to the Indian school at Wahpeton, N. Dak., and provides $15,000 for the extension of the power plant and improvement of water system at said school.

No. 108. Corrects the paragraph as it passed the House (as the Standing Rock Indian Reservation is situated in North Dakota and South Dakota), which provided $100,000 of the tribal funds of the Indians of the Standing Rock Reservation for the purchase of cattle for the use of said Indians.

No. 116. Authorizes the Secretary of the Interior to contract for water rights for the irrigation of not to exceed 600 acres of land in the Fort Sill Indian School Reservation, Okla.

No. 122. Decreased from $200,000 to $175,000 the amount allowed by the Senate for paying the expenses of administration of the affairs of the Five Civilized Tribes in Oklahoma.

No. 123. Fixes the time when the consolidation of the office of Commissioner to the Five Civilized Tribes and the superintendent of the Union Agency, Okla., shall take effect.

No. 125. Provides for the purchase of additional lands for the Cherokee Orphan Training School, Oklahoma.

No. 126. Strikes out the provision reappropriating unexpended funds heretofore appropriated.

No. 131. Provides for the equalization of the Creek allotments.

No. 132. Provides for the advertising and sale of the land within the segregated coal and asphalt area of the Choctaw and Chickasaw Nations, Okla., and of the improvements thereon.

No. 134 is to correct the language.

No. 136. Provides for the enrollment of persons listed in Senate Document No. 478, Sixty-third Congress, second session, as

members of the Five Civilized Tribes, Oklahoma, and also for the payment of such persons when enrolled certain amounts in lieu of allotments; also compensation for attorneys.

No. 138. Appropriates $10,000 of the tribal funds belonging to the Creek Indians to pay the expenses of a national council of said Indians.

No. 144. Provides for an extension of time on deferred payments due by settlers in the Comanche, Kiowa, and Apache ceded lands in Oklahoma.

No. 145. Provides $10,000 for an addition to the assembly hall at the Indian school, Salem, Oreg.

No. 147. Strikes out a provision making $3,000 of an appropriation of $10,000 immediately available for repair of buildings and purchase of equipment destroyed or damaged by a tornado at the Indian school, Flandreau, S. Dak.

No. 149. Decreased from $40,000 to $37,500 for the care of insane Indians at the asylum at Canton, S. Dak.

No. 152. Provides for the withdrawal of $300,000 of the tribal funds of the Confederated Bands of Ute Indians, together with the accrued interest thereon, for the purpose of promoting civilization and self-support among the said Indians.

No. 154. Provides for the protection of the abutment of the bridge at Myton, Uintah Indian Reservation, Utah.

No. 159. Decreases the amount for repairs and improvements from $6,000 to $5,000 for the Indian school at Hayward, Wis., and corrects the totals.

No. 160. Provides for the construction of an employees' building at the Indian school, Tomah, Wis., and corrects the totals.

No. 161. Provides for the making of a complete roll of the unallotted members of the La Pointe or Bad River Band of Chippewa Indians in the State of Wisconsin, for their allotment, and for the sale of the merchantable timber on such allotments; also for the per capita distribution of the net proceeds of the sale of such timber, and for the construction and operation of sawmills.

No. 162. Directs an investigation of the condition and tribal rights of the so-called St. Croix Chippewa Indians in the counties of Polk, Burnett, Washburn, and Douglas, in the State of Wisconsin, and for a report thereon to Congress.

No. 163. Authorizes the setting apart of certain land on the La Pointe Indian Reservation, Wis., for an Indian town site, and for the platting and sale of lots to said Indians.

JNO. H. STEPHENS.
C. D. CARTER.
CHAS H. BURKE.
*Managers on the part of the House.*

Mr. STEPHENS of Texas. Mr. Speaker, I move the adoption of the conference report.

The SPEAKER. It does not have to be moved. The question is on agreeing to the conference report.

Mr. BURKE of South Dakota. Mr. Speaker, will the gentleman from Texas [Mr. STEPHENS] yield me a few moments' time? I would just as soon have it after the report is adopted, up to the disagreements, as now.

Mr. STEPHENS of Texas. I will make another motion for that.

Mr. BURKE of South Dakota. Let the report be adopted, and then let the gentleman yield.

The SPEAKER. The gentleman will not have any time to yield after the report is adopted.

Mr. STEPHENS of Texas. It is not a full report, Mr. Speaker.

The SPEAKER. The question is on agreeing to the conference report.

Mr. MILLER rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. MILLER. I rise to ask the gentleman from Texas [Mr. STEPHENS] to yield to me sufficient time to enable me to ask him two or three questions in reference to the conference report.

Mr. STEPHENS of Texas. What does the gentleman say?

The SPEAKER. The gentleman from South Dakota asks the gentleman from Texas to yield to him sufficient time to enable him to ask some questions in regard to the conference report.

Mr. BURKE of South Dakota. I simply desire to ask the gentleman from Texas a few questions in regard to the conference report.

Mr. STEPHENS of Texas. As to what items?

Mr. MILLER. There are several items on which I desire some information. I will refer first to amendment numbered 25, on page 13 of the bill, contained on page 3 of the report of the conferees. I find that the managers have raised the amount appropriated by the House, which amount is $116,000, not only up to the amount changed by the Senate, to $125,000, but even up to the amount of $135,000. In other words, the amount as contained in the conference report is $10,000 higher than the amendment made by the Senate, which in turn was $10,000 or thereabouts higher than the amount passed by the House. I have no doubt the reasons for this are ample, but I would like to inquire what they were. The report does not state.

Mr. STEPHENS of Texas. That is amendment numbered 25?

Mr. MILLER. Yes; that is the item for special agents—an item that has been attracting some attention when the bill has been considered during the past four years.

Mr. STEPHENS of Texas. That addition was made, as I remember, on a statement from the Indian Department, to the effect that it was necessary in connection with the revolving fund that they are now using to a great extent in the Western States for the purpose of improving the condition of the Indians in agriculture and irrigation and other matters on which we are spending a vast sum of money at the present time.

Mr. MILLER. Do I understand from the gentleman from Texas that these special agents are to devote their time exclusively to instructing the Indians in agriculture, stock raising, and various domestic and industrial pursuits, or are they to occupy some of their time in protecting the Indians from the rapacity of their white neighbors in the protection of their property?

Mr. STEPHENS of Texas. They are under the direction of the Secretary of the Interior, through the Indian Bureau.

Mr. MILLER. I will make the question still more specific. Would any of these special agents work in Oklahoma? Will any of them have an opportunity to protect the minor Indian children whose estates are being probated in the probate courts there?

Mr. STEPHENS of Texas. I will state to the gentleman that these special agents can be used in Oklahoma, or elsewhere, if the department so desires. There is no reservation in this language that would prevent sending them to Oklahoma on any special mission.

Mr. MILLER. May I ask the gentleman if the reason for increasing this appropriation so very materially was due to the fact that they desire to send these men into Oklahoma to look after probate estates, the special agents having been discontinued by another provision of the bill?

Mr. STEPHENS of Texas. I will say that the department has the special agents to look after various tribes. The Oklahoma Indians are under separate rules and regulations from the Indians in other parts of the United States; but there is nothing to prevent the interchange of the work of the special agents and sending them anywhere they please.

Mr. MILLER. Then, as a matter of fact, this increased appropriation will enable the department to maintain some of these special agents in Oklahoma to look after probate matters, if the department so desires, and they will take the place of the special agents discontinued by other parts of the bill?

Mr. STEPHENS of Texas. If the gentleman will read lines 14 and 15, I think that fully explains the object of it—

and for other necessary expenses of the Indian Service for which no other appropriation is available.

There is a special appropriation for Oklahoma, and it may be that there is special work required in Oklahoma, in some of these tribes, and this gives them an opportunity to send special agents there to do this work, in addition to the men who are already located there.

Mr. MILLER. I should like to ask the chairman of the committee with respect to amendment 24. When the bill passed the House the amount appropriated for the payment of Indian police was $150,000. The Senate increased that to $200,000. I could not see any possible reason for it, and I do not see any given in the report of the conferees. That is a very substantial and material increase over any amount carried for many years. I should like to inquire why that is.

Mr. STEPHENS of Texas. The evidence before the committee was to the effect that a great deal of the trouble originating on these Indian reservations is on account of bootleggers, men who unlawfully bring whisky on the Indian reservations, and it is necessary to have these Indian policemen to work in connection with the special police force for the purpose of preventing the sale of intoxicating liquors among Indians.

Mr. MILLER. That is the exact purpose of my inquiry. This bill appropriates $150,000 to suppress the liquor traffic among the Indians, a very legitimate and much needed work. Is it designed that this is another appropriation of $50,000 for the same purpose, under another guise?

Mr. STEPHENS of Texas. It is designed that the Indian police shall work in concert with the regular force for the pur-

pose of suppressing all kinds of crimes among the Indians. It is a police force that can be used for all purposes.

Mr. MILLER. Has the department furnished the conferees with evidence satisfactory to them that the present condition of morality or the present condition of crime among the Indian people requires this very enormous increase in the amount for police supervision?

Mr. STEPHENS of Texas. I will state to the gentleman that this was furnished to the Senate after the bill went over there. Gentlemen will remember that this bill was in the Senate for several months, and additional investigations have been made by the department, and additional amounts have been requested. The gentleman is one of the alert members of the House Committee on Indian Affairs, and very active in the work of that committee, and the gentleman knows that we gave all the amounts that were asked by the department when we believed that it was the proper thing to do; but the Senate had before it more and later information than our committee had when it passed the bill, therefore the conferees agreed to the item of the Senate for this increase. The gentleman will remember that this $150,000 is to be distributed all over the United States, and it covers an enormous territory.

Mr. MILLER. I should like to ask the gentleman also about amendment 22. That amendment relates to the old time-honored controversy over the warehouses.

Mr. STEPHENS of Texas. Yes.

Mr. MILLER. We fought that out, up hill and down hill, for a good many years, the House always deciding one way and the Senate another. It seems that the favored spots have had their representatives in a place of influence, and those representatives have prevailed, although I congratulate the conferees on having gained something in the nature of a concession on our side of the case. I see this limits the number of warehouses to three. Heretofore there have been five. Where is it proposed to maintain these three? Let us see how that will satisfy the various gentlemen who represent these pet projects.

Mr. STEPHENS of Texas. We thought we accomplished a great deal by getting rid of a part of them.

Mr. MILLER. I think the gentleman has accomplished something, but may I inquire where the remaining three are to be located?

Mr. STEPHENS of Texas. It leaves the matter entirely in the hands of the department. The department heretofore could have reduced the number of these warehouses——

Mr. MILLER. That is exactly the point. There has been no time when they could not have reduced the number to three or reduced it to none, but they have not had the strength or the courage to do it. In other words, they have been cowardly about it. Now, you are going to write into law authority that they may maintain at least three.

Mr. STEPHENS of Texas. They might have had three heretofore or they might have had only one.

Mr. MILLER. Because this provision here is tantamount to a recommendation on the part of Congress that there be three. But may I inquire where these three favored warehouses are going to be located? Has the department informed the gentleman as to where it is designed to maintain these three?

Mr. STEPHENS of Texas. The department has the right to maintain them wherever they will best serve the interests of the Indians. A great many supplies have to be furnished for the Indians, and two things have especially to be considered. One is the question as to where the best market is to purchase these supplies and the other is the most available route by which they can be shipped to the Indians.

Mr. MILLER. Can the gentleman inform the House where the department contemplates maintaining these three warehouses?

Mr. STEPHENS of Texas. I can not do that. It would be impossible. I am not a prophet nor the son of a prophet.

Mr. GRAHAM of Illinois. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GRAHAM of Illinois. The conference report shows that there has been no agreement on item 23. What I desire to know is, when it would be in order to make a motion in reference to that item?

The SPEAKER. As soon as we dispose of the conference report.

Mr. HARRISON. I want to ask the gentleman one question with respect to Senate amendment No. 139, the amendment dealing with the Mississippi Choctaws. I had expected to offer a motion to this amendment to recede and concur in the Senate amendment, but I think I will not, and will allow it to go back to conference, hoping that the conferees can then agree on a settlement of the question. Now, I want to call the gentleman's attention to the fact, because the conferees will have to do something with it in conference. In the latter part of that amendment No. 139 it says:

*Provided, however*, That the provisions of this act shall not be applicable to the members of the Choctaw Nation in Oklahoma until Congress shall have determined the rights of the Mississippi Choctaws whose names do not appear upon the approved rolls of the Choctaws in Oklahoma and until such of said Mississippi Choctaws as shall be found entitled to enrollment have been placed upon the rolls of citizenship of the Choctaw Nation.

I want to call the attention of the gentleman to the fact that the amendment read says "provisions of this act shall not be applicable." I think that ought to read "provisions of this paragraph shall not be applicable."

Mr. STEPHENS of Texas. The paragraph is a part of the act, and the greater includes the less, and this amendment is in disagreement.

Mr. HARRISON. I know it is in disagreement, and therefore I wanted to call the attention of the gentleman to it so that he could correct it in conference. It should be "provision" where the word now appears "act."

Mr. STEPHENS of Texas. We can take that into consideration.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the conference report was agreed to.

Mr. STEPHENS of Texas. Now, Mr. Speaker, I move to further insist on the disagreement to the other amendments and ask for a conference.

Mr. BURKE of South Dakota. Mr. Speaker, I ask that the gentleman now yield to me.

Mr. GRAHAM of Illinois. Mr. Speaker, would the motion that I suggested a while ago be now in order?

The SPEAKER. That is according to what the gentleman's motion is.

Mr. GRAHAM of Illinois. I move to concur in Senate amendment 23 with an amendment by striking out the figures "25,000" and substituting the figures "10,000."

The SPEAKER. That is in order unless some gentleman wants to make a flat motion to recede and concur.

Mr. MANN. Mr. Speaker, I ask for a separate vote on the motion of the gentleman from Texas.

The SPEAKER. The gentleman from Illinois asks for a separate vote on the various amendments, and, without objection, it will be so ordered.

There was no objection.

The SPEAKER. The Clerk will report amendment 23.

The Clerk read as follows:

Senate amendment 23, page 12, strike out line 16.

The SPEAKER. The gentleman from Texas moves to further insist on the disagreement of the House to the Senate amendment 23, and the gentleman from Illinois [Mr. GRAHAM] makes a preferential motion to concur with an amendment which the Clerk will report.

The Clerk read as follows:

Page 12, strike out the figures "25" and insert the figures "10."

Mr. GRAHAM of Illinois. Mr. Speaker, I am not very well informed as to the right of debate, but I would like to be heard.

Mr. STEPHENS of Texas. How much times does the gentleman want?

Mr. GRAHAM of Illinois. Ten minutes.

Mr. STEPHENS of Texas. I will yield to the gentleman five minutes.

Mr. MURDOCK. Will the gentleman from Texas give me three or four minutes?

Mr. MILLER. I want at least five minutes.

Mr. GRAHAM of Illinois. Mr. Speaker, the item in question is an appropriation for the expenses of the Board of Indian Commissioners. The House allowed $4,000 and the Senate increased that amount to $25,000. I am convinced that the first amount is too small, and that the second one is too large, and I have therefore substituted a motion for $10,000 as the proper amount.

The Board of Indian Commissioners is an independent body of men appointed by the President of the United States, who serve absolutely without any salary, and many of them are spending a good deal of their own money in investigating questions concerning the good of the Indians. In some of the work of investigation in Indian matters, in which I have had personal experience, I came in contact with several of these gentlemen.

At that time the president of the board was Dr. Draper, who had been president of the State University of Illinois, whom I knew personally, and talked with at length on this subject. Since then Dr. Draper has died and another has taken his place.

Another one was a Mr. Moorehead, connected with a theological seminary in Massachusetts. He did a great deal of very excellent work in connection with Indian affairs. The $4.000 allowed by the House would barely allow them to keep an office and employ a secretary, but do little else than that. I do not think they want as much as $25.000. With $4.000 they would be a good deal in the condition of an old farmer I heard of a number of years ago. He had quite a large bunch of very excellent stock on his farm. He also had a great big crib filled with splendid corn, but that year corn happened to be very high, about 75 cents a bushel, and he hated like the mischief to feed it out to the cattle. He finally compromised between his judgment and his inclination on the subject and he fed the cattle just a little corn from day to day, enough to keep them alive, and but little more than that. He kept on doing that until the corn was all fed out. The result was the cattle were barely kept alive, but did not grow, and the corn disappeared, so that he had little left on either side. If he had been wise he would have given the cattle enough to make them grow. Then he could have marketed them in time to save some of his corn and thus save something both ways.

If we give this board $4.000, you feed them the way the old farmer fed his stock, and will not get good results, whereas if we give enough to accomplish something, they can and will do a great deal in the field they are working in. They do a work that is done by no other body. They are supplementing the efforts of the Indian Bureau, and everything they have done is in the line of elevating the Indian race. It seems to me that if the board is to be continued at all they ought to have a reasonable appropriation. Ten thousand dollars is not a very large appropriation, when you consider what they must have to maintain an office, a secretary, and other expenses. As I understand it, this is one of the points, if not the one point in conference upon which the conferees seem unable to agree. I therefore propose to cut down the higher allowance and raise the lower allowance and give the board such a reasonable amount as will enable it to continue doing this useful work. [Applause.]

Mr. STEPHENS of Texas. Mr. Speaker, I desire to state that the amount asked for by the department for this commission was $5,000, and the House reduced the amount to $4.000, and that has been the amount carried for a number of years. The Senate, by amendment No 23, raised the amount to $25.000. I desire to state that this Board of Indian Commissioners was first known as a board of peace commissioners. It was authorized by Congress about 40 years ago under President Grant's administration. At that time many of the Indian tribes in the West were hostile to the whites, and, as they expressed it, had gone upon the warpath; and the Army officers were not very successful in quelling these disturbances. They had the idea that a good many western men entertained and freely expressed, that all the good Indians are dead Indians. The people of the East did not agree with that contention, especially the humanitarians of the East, and they urged that these uprisings could and should be prevented by peaceful means. This condition of affairs led to the creation of a board of peace commissioners selected from the East to go among these Indians and influence them by peaceful means to make treaties of peace with the United States Government. There was appropriated by Congress the sum of $30,000 the first year for that purpose. For a number of years this commission was known as the peace commission. It is now called the Board of Indian Commissioners. The Board of Indian Commissioners accomplished many years ago the purpose for which it was created; all of the Indians are now on their reservations, and there is not a hostile band of Indians in this country. Why, may I ask, should we continue to appropriate money annually to keep in office 10 useless men, described in the law creating the commission as "men eminent for their intelligence and philanthropy"? This useless body of official misfits only illustrates the fact that when the nose of a Republican camel once gets in the Treasury tent you can never pull it out again.

This body of men have been in office since 1869—45 years. These offices could and should have been abolished within 10 years after they were created. There is an old legal maxim, disputed by none, that "when the reason for a law ceases the law itself should cease." This board of so-called Indian Commissioners has too often contained men who did not desire the good of the Indians so much as they did the good of the party giving them their appointments or of the church to which they belonged. For that reason, instead of keeping it in existence and throwing away $4,000 upon it, it should be abolished. There is not another department of this Government, besides the Indian Department, that has to be supervised. Why should not the War Department, for instance, which annually spends multiplied millions of dollars for supplies, or the Navy Department that spends an immense amount of money annually without any supervision by a commission of "holier than thou" pretensions, be also supervised? Why do you only find in the Indian Department such a commission? Are the men in that department all crooks and in the other departments all saints?

Mr. MILLER. Will the gentleman yield for a question?

Mr. STEPHENS of Texas. Not at the present time. Mr. Abbott, the secretary of this board, at a banquet given him by the merchants of San Francisco recently stated he was out there for the purpose of helping the merchants of San Francisco to get their part of these Indian purchases. Now, that was certainly wrong, for he had no authority to speak for the commission. The Indian Department purchases these goods where they can be purchased cheapest and without regard to building up the trade of any special city. We have in the Indian Bureau the very best purchasing agents that can be had. So has the Army service and the Navy service, and if a special board of supervisors is necessary for the Indian Service why are they not also necessary for the other departments of the Government?

Mr. Moorehead, the commissioner mentioned by the gentleman from Illinois [Mr. GRAHAM] a few moments ago, went to Oklahoma last year and by unjust criticisms of Indian officials there stirred up more trouble for the Indian Bureau than has ever before occurred in the settlement of the matters of the Five Tribes.

Mr. Speaker, the Board of Indian Commissioners was created in 1869. Its members serve without salary and maintain an office in Washington, for the expenses of which and of travel Congress has made special or annual appropriations. Although the board reports to the Secretary of the Interior, it is not a bureau or division of the Interior Department, but rather a body of private citizens purposely kept reasonably free from governmental control, debarred from salaries, and afforded opportunities for investigation in order that they may freely express an intelligent and impartial opinion on matters pertaining to Indian administration. This advisory function of the board and its other duties are defined in the following extracts from an Executive order and laws:

[From Revised Statutes of the United States, 1874.]

SEC. 2039. There shall be a Board of Indian Commissioners, composed of not more than 10 persons, appointed by the President solely, from men eminent for intelligence and philanthropy, and who shall serve without pecuniary compensation. (Apr. 10, 1869, 16 Stat., 40.)

SEC. 2041. The board of commissioners mentioned in section 2039 shall supervise all expenditures of money appropriated for the benefit of Indians within the limits of the United States; and shall inspect all goods purchased for Indians, in connection with the Commissioner of Indian Affairs, whose duty it shall be to consult the commission in making purchases of such goods. (July 15, 1870, 16 Stat., 360.)

SEC. 2042. Any member of the Board of Indian Commissioners is empowered to investigate all contracts, expenditures, and accounts in connection with the Indian Service, and shall have access to all books and papers relating thereto in any Government office; but the examination of vouchers and accounts by the executive committee of said board shall not be a prerequisite of payment. (May 29, 1872, 17 Stat., 186.)

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[From act of May 17, 1882 (22 Stat., 70).]

And hereafter the commission shall only have power to visit and inspect agencies and other branches of the Indian Service, and to inspect goods purchased for said service, and the Commissioner of Indian Affairs shall consult with the commission in the purchase of supplies. The commission shall report their doings to the Secretary of the Interior.

—

[From Executive order of June 3, 1869.]

EXECUTIVE MANSION,
*Washington, D. C., June 3, 1869.*

A commission of citizens having been appointed, under the authority of law, to cooperate with the administrative departments in the management of Indian affairs * * *, the following regulations will, till further directions, control the action of said commission and the Bureau of Indians Affairs in matters coming under their joint supervision:

The commission will make its own organization and employ its own clerical assistants * * *.

The commission shall be furnished with full opportunity to inspect the records of the Indian Office and to obtain full information as to the conduct of all parts of the affairs thereof.

They shall have full power to inspect, in person or by subcommittee, the various Indian superintendencies and agencies in the Indian country * * *.

They are authorized to be present, in person or by subcommittee, at purchases of goods for Indian purposes, and inspect said purchases, advising with the Commissioner of Indian Affairs with regard thereto.

Whenever they shall deem it necessary or advisable that instructions of superintendents or agents be changed or modified they will communicate such advice, through the office of the Commissioner of Indian Affairs, to the Secretary of the Interior, and, in like manner, their advice as to changes in modes of purchasing goods or conducting the affairs of the Indian Bureau proper. Complaints against superintendents or agents or other officers will, in the same manner, be forwarded to the Indian Bureau or Department of the Interior for action.

The commission will, at their board meeting, determine upon the recommendations to be made as to the plans of civilizing or dealing with the Indians and submit the same for action in the manner above indicated * * *.

* * * * * * *

All the officers of the Government connected with the Indian Service are enjoined to afford every facility and opportunity to said commission and their subcommittees in the performance of their duties, and to give the most respectful heed to their advice within the limits of such officers' positive instructions from their superiors, to allow such commissioners full access to their records and accounts, and to cooperate with them in the most earnest manner, to the extent of their proper powers.

The commission will keep such records or minutes of their proceedings as may be necessary to afford evidence of their action, and will provide for the manner in which their communications with and advice to the Government shall be made and authenticated.

U. S. GRANT.

MEMBERS OF THE BOARD OF INDIAN COMMISSIONERS (NOVEMBER 1, 1911).

Andrew S. Draper, chairman, Albany, N. Y.
Albert K. Smiley, Mohonk Lake, N. Y.
Merrill E. Gates, Washington, D. C.
William D. Walker, Buffalo, N. Y.
George Vaux, jr., Philadelphia, Pa.
Michael E. Bannin, Brooklyn, N. Y.
Warren K. Moorehead, Andover, Mass.
Samuel A. Eliot, Boston, Mass.
James Gibbons, Baltimore, Md.
Frank Knox, Sault Ste. Marie, Mich.
H. C. Phillips, secretary, Washington, D. C.

Mr. Speaker, the Secretary of the Interior, through the Commissioner of Indian Affairs, has included in the estimates for the Indian appropriation bill (1913) an item of $5,000 for the expenses of the Board of Indian Commissioners. Since the fiscal year 1895 the appropriation has been $4.000 annually. For five years prior to 1895 it was $5,000. Before 1890 it varied from $2,000 to $25,000, some appropriations being made for irregular periods.

In defense of the proposed increase there is submitted the following statement:

The Board of Indian Commissioners, created in 1869, is unique in being probably the only commissioned body of the United States whose members draw no salaries. Its status is also unique in that it is not a bureau or division of any department and that its members are "appointed by the President solely, from men eminent for their intelligence and philanthropy." Its purpose. as stated by Congress in the act of April 10, 1869 (16 Stat., 40), was that "of enabling the President" to carry out the then new peace policy of dealing with the Indians. Its original duty, as defined by Executive order of June 3, 1869, was, in brief:

To "determine upon the recommendations to be made as to the plans of civilizing or dealing with the Indians, and submit the same for action," subject to approval "by the Executive or the Secretary of the Interior"; to communicate "advice as to changes in modes of purchasing goods or conducting the affairs of the Indian Bureau," and, if necessary, to file complaints against officers in the Indian Service.

The obvious intent of these unusual provisions was the creation of an advisory body, having the sanction of the Government and yet reasonably free from governmental restraint or influence, with the right and duty of forming and expressing an impartial opinion on Indian affairs, thereby assisting the administration to guard against the great danger of error, fraud, and injustice to which Indian adminstration is peculiarly exposed. This has always been the chief function of the board and the source of most of its public service.

That the board might properly carry out this duty it was given broad powers, including:

1. To inspect the records of the Indian Office and to obtain full information as to the conduct of all parts of the affairs thereof.
2. To inspect, in person or by subcommittee, the various Indian superintendencies and agencies in the Indian country.
3. To be present, in person or by subcommittee, at purchases of goods for Indian purposes, and inspect said purchases, advising with the Commissioner of Indian Affairs with regard thereto.
4. To provide for the manner in which their communications with and advice to the Government shall be made and authenticated.

It is especially significant that inspection of supplies was originally not a duty, but only an incidental right. Congress on July 15, 1870 (16 Stat., 360), made it mandatory.

Congress also, between 1870 and 1872 (Rev. Stat., secs. 2041, 2042), imposed on the board the strenuous additional duty of supervising all expenditures of money appropriated for Indian purposes, and gave it the right to investigate all contracts, expenditures, and accounts in connection with the Indian Service. When the great amount of clerical work thus involved seemed unnecessary, Congress passed the act of May 17, 1882 (22 Stat., 70), which reads in part:

And hereafter the commission shall only have power to visit and inspect agencies and other branches of the Indian Service, and to inspect goods purchased for said service, and the Commissioner of Indian Affairs shall consult with the commission in the purchase of supplies. The commission shall report their doings to the Secretary of the Interior.

This act has sometimes been interpreted alone as confining the board's work to cooperation with the Commissioner of Indian Affairs in the purchase of supplies. Generally, however, it was interpreted as restoring the board's status under the Executive order of June 3, 1869, and the act of July 15, 1870, with the following principal duties:

1. To determine upon and make recommendations as to methods of dealing with the Indians and of conducting the affairs of the Indian Bureau.
2. To cooperate with the Commissioner of Indian Affairs in the purchase of supplies.

That this interpretation was contemplated in the act of May 17, 1882, and is correct seems apparent because—

1. The act also appropriated $4,700 and specifically directed that $3,200 should be used for secretary's salary and office expenses and $1,500 for travel. Congress could hardly consider the maintenance of an office at an expense of $3,200 necessary to direct an expenditure of $1,500 for the single purpose of inspecting Indian supplies. Moreover, the apportionment compares very closely with the needs for which the board now asks $5,000.
2. The sweeping "power to visit and inspect agencies and other branches of the Indian Service" would seem to imply something beyond mere inspection of goods.
3. Every Congress since 1882 has made an appropriation for the expenses of the board which has all the time been acting under the liberal interpretation of the act of 1882. Had not this been warranted the fact would surely have been discovered in less than 30 years.
4. This interpretation has been recognized by every President, and, with one exception, by every Secretary of the Interior since 1882; and in the single exception noted the point was conceded in the board's favor.
5. Any other construction ignores the original reason for creating the board, its history, and common thought and usage concerning it.

The funadmental idea underlying the board's work and giving value to its recommendations is that of impartiality. It was designed and organized to furnish an impartial viewpoint, with special heed to the prevention of injustice and the recommendation of progressive measures. Its best work has been along that line. Its unsalaried members, as disinterested parties, are bound to take into consideration divergent views regarding Indian matters. This necessitates the maintenance of an office, which must keep in close touch with Indian legislation and administration and with the lines of thought represented by missionary and philanthropic societies and by private individuals interested in the Indians. The scattered residences of the members make such an office indispensable as a medium of communication and action. It is necessary that the board hold annually at least two meetings. It is equally important that one or more members make frequent trips to portions of the Indian field, in order that the board may have the benefit of first-hand observation and knowledge. The combined expense of maintaining the office and of travel incident to board meetings is usually between $3,700 and $3,800 annually. An appropriation of $4,000, therefore, allows a balance ridiculously small for the work of visiting and inspecting branches of the Indian Service and of assisting in the purchase of supplies. When this handicap is considered, it is submitted that the board has done its work with a fair degree of efficiency.

If the foregoing statement is correct, it would seem that since 1894 there has existed the anomalous condition of a board unable to fully perform its duties because it has lacked funds and of Congresses that have failed to provide adequate funds, presumably because they believed the board was not performing its duty. Certainly there should be no difficulty and every advantage in reaching a frank understanding as to the duties of the board and the amount of money needed to perform them.

There are appended to this statement:

(a) A table showing the average expenses of the board for the past five years.
(b) A copy of that portion, in full, of the act of May 17, 1882, referring to the board.
(c) A copy of the board's forty-second annual report, containing (pp. 11–13) excerpts from other acts and from the Executive order of 1869.

*Board of Indian Commissioners, annual expenses.*

(Average for five fiscal years, 1907–1911, inclusive.)

| | | |
|---|---|---|
| Rent | | $295.00 |
| Secretary | | 2,500.00 |
| Stenographer | | 395.60 |
| Care of office and repairs | | 27.16 |
| Furniture and stationery | | 65.88 |
| Telephone | | 40.99 |
| Printing (of annual report) | | 93.75 |
| Travel by members: | | |
| (a) Incident to board meetings | $302.66 | |
| (b) In Indian field and to inspect supplies | 216.00 | |
| | | 518.66 |

| | |
|---|---|
| Covered back into United States Treasury (mainly a single refund in 1907 of $285, which had been reserved for an expense that did not accrue before the end of the fiscal year) | 62.96 |
| Total | 4,000.00 |

Annual appropriation, $4,000.

The act of May 17, 1882 (22 Stat., 70), provided:

For the expense of the commission of citizens, serving without compensation, appointed by the President under the provision of the fourth section of the act of April 10, 1869, $4,700, to be distributed as follows, namely: For secretary, $2,000; for messenger, $600; for rent of office, $400; for traveling expenses of the commission, $1,500; and for contingent expenses of office, $200. And hereafter the commission shall only have power to visit and inspect agencies and other branches of the Indian Service and to inspect goods purchased for said service, and the Commissioner of Indian Affairs shall consult with the commission in the purchase of supplies. The commission shall report their doings to the Secretary of the Interior.

Mr. Speaker, I desire further to call the attention of the House to Senate amendment No. 37, on page 21 of the bill. The following letter from Commissioner Sells fully explains that item and explains why it should be retained in the bill:

MY DEAR MR. STEPHENS: I have the honor to invite your attention to the following item, originally in the pending Indian bill but stricken out by the Senate:

"For improvement and sinking of wells, installation of pumping machinery, construction of tanks for domestic and stock water, and for the necessary structures for the development of a supply of water for domestic use for eight Papago Indian villages in southern Arizona, $20,000." (H. R. 12579, p. 21, line 6.)

It appears from the Senate debate on this item (CONGRESSIONAL RECORD, June 22–23, 1914, pp. 11840–11843, 11915–11917) that this action was taken owing to certain objections to the item in its present form.

In view of the fact that this project is vitally important to the welfare of the Indians in these villages, I submit below further information in the premises, a portion thereof being taken from report of House hearings on the Indian appropriation bill (pp. 322–326) and repeated here for your convenience:

*Statistics, eight Papago villages.*

| | |
|---|---|
| Census, 1913 (present irrigable area undetermined) | 1,423 |
| Irrigated area, acres (acres under completed project depend upon water found | 873.7 |
| Acres cultivated by Indians | 873.7 |
| Acres cultivated by whites | None. |
| Value of irrigated land per acre | $100 |
| Expended to June 30, 1913 | Nothing. |
| Estimate for fiscal year 1915 | $35,600 |
| Cost of completed project | $35,600 |

The Indians of this territory have had little or no aid from the Government and are a bright and energetic people, for Indians. Their principal source of revenue is that of stock raising, and this could be made a source of much greater revenue for them if it were not for the fact that the water supply for use of the stock is very limited and hard to obtain. Frequently the feed is ample in a locality, but water is at such a great distance that stock can not subsist. The estimate on this contemplates the sinking of wells, or the improvement of those already constructed, the installation of a pump and small distillate engine, the construction of excavated tanks for domestic and stock water, and the erection of a small structure over the pump and engine.

There are eight villages which are much in need of these improvements. Others might in the future require the same. The villages included are:

| Name. | Location. | Population. | Cultivated acreage. |
|---|---|---|---|
| Cockleburr | Tp. 8 S. R. 4 S | 200 | 200 |
| Chiu-Chiuschu | Tp. 8 S. R. 5 E | 200 | 188 |
| Ko-Opke | Tp. 8 S. R. 5 E | 75 | 104 |
| Taht-Mohmeli | Tp. 9 S. R. 5 E | 100 | 50 |
| Komelih | Tp. 10 S. R. 4 E | 150 | 4 |
| Quajoti | Tp. 10 S. R. 4 E | 100 | 245 |
| Anegam | Tp. 12 S. R. 3 E | 200 | 218 |
| Santa Rosa | Tp. 12 S. R. 3 E | 400 | 294 |

The cost of individual pumping plants is estimated as follows:

| | |
|---|---|
| Sinking well 6 inches diameter 200 feet, at $5 | $1,000 |
| Pump | 800 |
| Gas engine | 400 |
| Domestic water-storage tank | 500 |
| Stock water-storage tank | 750 |
| Structures, buildings for pump, engines, etc | 500 |
| Engineering and incidentals | 500 |
| Total | 4,450 |

This project is entirely distinct from the $50,000 item for similar work on the Papago Reservation, and can have no effect whatever upon the water supply of the city of Tucson, which has an elevation of 2,387 feet. These villages are located 75 miles north and west of Tucson, at considerably lower elevation, ranging from 1,450 to 1,800 feet. The designation "Nomadic Papagos" is perhaps something of a misnomer for these particular Indians, as they have resided in said villages for many years, only leaving them temporarily when forced to do so by lack of water. By rude methods they have developed a small water supply from shallow hand-dug wells only sufficient for their barest necessities.

An exhaustive report has been received in regard to water conditions among these Indians, and for your information there is attached hereto copy of extracts from that portion thereof relating to the eight villages in question, three of which are located on land already reserved for their exclusive benefit, viz: Cockleburr, Ko-Opke, and Taht-Mohmeli.

Many of these Indians own a few head of stock and cultivate small tracts of land. It will be noted that rudely constructed wells already exist in a number of these villages, and if the present wells can be improved, enlarged, and properly cased, other wells dug, and pumping plants installed, as contemplated, such action will contribute very materially to their well-being; and, in fact, is absolutely essential to their progress. Under present conditions it is extremely difficult for many of these Indians to maintain themselves and families owing to the lack of an adequate water supply for domestic and stock purposes.

In conclusion, I most earnestly recommend that this item be reinserted in the bill, for the following reasons: An additional water supply is vitally necessary to the welfare and progress of the Indians in these villages; this project can have no effect whatever upon the water supply of the city of Tucson, the villages being located about 75 miles north and west thereof at much lower elevation; and the contemplated withdrawal of the lands therein not already reserved for the Indians will not reduce the area of public domain available for homestead entry in that section, as the Indian's right of occupancy and use in a number of cases almost from time immemorial would be recognized in any event as against other parties, whether or not the land is ever formally set aside exclusively for such purposes by executive order or otherwise.

Very truly, yours,

CATO SELLS, *Commissioner.*

Hon. JOHN H. STEPHENS,
*Chairman Committee on Indian Affairs,*
*House of Representatives.*

COCKLEBURR.

This village is 14½ miles southwest of Casa Grande on the old Vekol road. These are the most thrifty and prosperous of any of the Papagos yet visited, which prosperity I attribute to a better water supply * * * than many of the other villages have.

Domestic water supply for this village is furnished by two wells 150 feet in depth, with 4 or 5 feet of water. These wells being open—the box or curbing supporting the windlass being crude, open affairs in poor repair—the wells are exposed to dust, dirt, and reptiles. None of the wells are walled up or lined, and earth from some of the softer strata is continually disintegrating and falling into the wells. All these causes render the water supply anything but pure and wholesome.

It is suggested that one of the first things done should be the protection of these wells and the installation of a quicker and more adequate method of drawing water. I am told on good authority that several head of live stock—horses and cattle—die every summer from lack of water, and I know that there is great suffering among the stock from this cause. If pumps, tanks, and watering troughs could be installed at these wells it would contribute more to the health, cleanliness, and so forth, of these Indians than anything I know of.

TAHT-MOHMELI.

This village is 1½ miles southwest of the Jack Rabbit Mine. These Indians are in a condition bordering on destitution. They have few fields, as their supply of water for irrigation is small and uncertain. This supply is obtained by a system of storm-water ditches, which intercept the branches of a small wash flowing through the village and carry it to the fields. Their crops this season are nearly a total failure. Their white neighbors state they are honest and industrious. Some of them are employed at the near-by mines when these are operating.

Few, if any, of these people have attended school. There is only one person in the village who can speak any English.

Water for domestic use and for stock is obtained from a well 84 feet in depth. This well, like the ones at Vahlwavaw or Cockleburr, is open, is not walled up or lined, and some of the softer strata are sloughing off and caving badly.

CHIU-CHIUSCHU.

Chiu-Chiuschu is one of the largest and most populous of the Indian villages along the Santa Cruz and tributaries. Although their water supply is small and uncertain, these Indians seem to enjoy some degree of prosperity. Their land is very fertile, and nearly all of the fields have produced fairly good crops this season. These people show considerable skill and industry in the cultivation of their fields and in irrigating them. Many of the fields are surrounded by levees for the purpose of holding the water until it thoroughly soaks into the ground. The principal crops are corn, cane, beans, squashes, melons, and so forth.

Several of these Indians have attended school and speak English. A mission is maintained by the Catholic Church.

Water for domestic use and for stock is obtained from two wells, 57 feet and 60 feet deep, respectively. Like all the others, these wells are open, and water is drawn in buckets.

QUAJOTI.

This village is about 7 miles west of the Jack Rabbit Mine and about 4 miles east of the Reward Mine. Water for domestic purposes is obtained from a well about 210 feet in depth, which was dug by these people about 15 years ago.

KOMELIH.

This village is about 7 miles southwest of the Jack Rabbit Mine. A well 160 feet deep was dug by whites in 1884–85 for station on the Quijotoa Road. The Indians moved in after the well was abandoned by the whites. Very little land—only a few garden patches—is in cultivation at this place, aggregating about 4 or 5 acres.

KO-OPKE.

This settlement is a short distance from the main road from Casa Grande to the Jack Rabbit Mine. There are in cultivation about 100 acres, irrigated by storm water from the surrounding territory. The water supply is deficient and uncertain. Domestic water is obtained from a well 78 feet in depth.

ANEGAM.

This village, usually called Upper Santa Rosa, is about 16 miles southwest of the Jack Rabbit Mine. Water is obtained from a wash of considerable size that emerges from the Sheridan Mountains, a short distance west of the village. The wash from which the water is obtained has a loose gravelly bottom and there is probably a considerable underflow. Water for domestic use and for stock is conserved in a tank or small reservoir. There is no well at this place, and the tank from which the domestic supply is secured is very insanitary, as it is not fenced in and all the Indians' cattle and horses secure water from the same source.

SANTA ROSA.

This is the largest and most populous of the Indian villages of the Santa Rosa Valley. Aside from being the most prosperous, it is probably one of the oldest. Near the village there are the remains of many ditches and tanks, said to be the remains of prehistoric irrigation systems. In the immediate vicinity also there have been found pottery and remains of weapons and implements supposed to have belonged to the ancient Aztecs.

There is no well here, and water for domestic use and the supply for the live stock is taken from the same tank. This tank is not fenced in and is very insanitary. The supply was practically exhausted in October, 1912, and these people were hauling water from Anegam and from Brownell.

I now yield to the gentleman from Kansas [Mr. MURDOCK] five minutes.

Mr. MURDOCK. Mr. Speaker, it happens I do not know Mr. Abbott, who has been mentioned, and I do not know any member of this board of commissioners, but I am for the motion offered by the gentleman from Illinois [Mr. GRAHAM].

Mr. STEPHENS of Texas. Will the gentleman yield to me then?

Mr. MURDOCK. I thought the gentleman had yielded to me.

Mr. STEPHENS of Texas. I had, but I desire to ask the gentleman a question. Does not the gentleman think other departments of the Government should be supervised also? If it is necessary to supervise the Interior Department, then let us have the War Department and the Navy Department and the White House and all the rest of them supervised.

Mr. MURDOCK. I will answer the gentleman from Texas, no; I do not think other departments should be supervised, but I do think that there is peculiarily in the Indian Service warrant for the existence of just this sort of supervisory commission. Now, it happens the gentleman from Texas and myself come from the same section of the country. He lives in northwestern Texas and I live in southern Kansas. Both of us have had our homes for years on the margin of the Indian country. Both of us know the early attitude of many of the pioneers of that section toward the Indians. I say to the gentleman from Texas that as a boy probably I shared that unfriendly attitude toward the American Indian; but as an adult and with a broader view in these later years, I have come to know that the way the American people have treated the aborigines of this country has been for the most part shameful.

It was natural, in the course of events, that the Indian should be segregated and removed to a small tract of territory, small compared with his original holdings. But in his guardianship the white man has not been kindly with the Indian. Our supervision over him in schools and on reservations is not pleasant to review. Here is a proposition, no matter what its origin may have been back in 1869, which gives to some 11 men—men of parts, men who serve without pay—the right to view the condition of these Indians—the remnant of the tribes, wherever they may be found in the United States—with a view of interceding with official Washington in their behalf. These men have done notable service, meritorious service, in the past. I think that their activities ought to be continued, and they ought to be given funds commensurate with their duties. Four thousand dollars will not go very far in making inquisition and investigation into Indian affairs; $10,000 will probably permit it, to some extent. I see no reason why Congress should hang back because of the difference.

We have driven the Indians into a little area. We have tried to civilize them. We have many of them segregated in schools. I want to say to the gentleman from Texas [Mr. STEPHENS] that during my service in Congress I have received more complaints about the conduct in Indian schools than I have over any other item of this Government.

Mr. STEPHENS of Texas. Does not the gentleman know that these commissioners have nothing to do with the Indian schools, but only with the purchase of supplies?

Mr. MURDOCK. They can investigate all parts of Indian affairs, I understand.

Mr. STEPHENS of Texas. So can I. But their investigation is only as to the purchase of supplies.

Mr. MURDOCK. They made a very meritorious and efficient investigation in Oklahoma in regard to probate, and conditions in that regard, I understand, have since been largely corrected as the result of these investigations. I hope the House will in this small measure, at least, do justice to the American Indian by giving him the benefit of supervision by men who are not hampered by Government red tape, and who are not hindered by bureau practices or bureau prejudices.

Mr. STEPHENS of Texas. Mr. Speaker, I yield five minutes to the gentleman from Minnesota [Mr. MILLER].

Mr. MILLER. Mr. Speaker, I desire to support the amendment offered by the gentleman from Illinois [Mr. GRAHAM] to increase the amount carried in the House bill from $4,000 to $10,000. I do it because, in my opinion, the Board of Indian Commissioners is an efficient and valuable adjunct to the Government of the United States in the administration of all Indian affairs. In the first place, this board is composed of men of the very highest standing in the respective parts of the United States in which they live. They are not narrow, prejudiced, small, biased men with an ax to grind. They are not men with preconceived notions that they desire to have put into effect. They are men whose broad spirit and high-minded character have caused them to enlist in a great humanitarian effort to see that justice, and pure justice, is done to the Indians. Go to the homes of every one of these men and you will find, I dare say, not a living being in the community in higher esteem than the member of this Board of Indian Commissioners. So much for the board.

Now, a word as to their work. I am not at all in accord with the distinguished chairman of the Indian Affairs Committee in his statement that the efficiency of this board is not of very great caliber and that its activities are to be restricted to a very few and minor matters. That was more than likely true at the inception and beginning of the workings of this organization, but it is not true to-day. It is not true to-day because the conscience of the American people has grown acute over Indian affairs. It is not true because to-day the American people have come to a new understanding and to cry "halt" upon the devastation of Indian property, the pauperizing of Indian minors, and the robbery of Indian full bloods throughout the United States. It is by reason of this changed condition of affairs that this board has come into being with strength and with a mission.

Now, let us see some of the activities of this commission during the past year or year and a half. Verily, they have been rendering an important work, and thereby we find a reason why they should be continued.

Mr. Speaker, ever since I have been a member of the Indian Affairs Committee of this House there have been many lines of Government activity dealing with Indian affairs about which I have known little or nothing, about which I could find no one who knew anything, but upon which no man on the floor of this House has a right to vote unless he knows something.

I refer, first, to the irrigation of Indian lands. How many men are there either on or off the Indian Affairs Committee of the House or Senate who can tell whether a project that has been tried or appropriated for is a feasible or proper one for the Indians, whether it is one that should be reimbursable from the funds of the Indians, and to what extent are the whites interested, rather than the Indians, in the project? Mr. Speaker, we have such a lack of information about these propositions for which each year we are spending literally millions of dollars that when we act we literally convict ourselves of incompetence. It was three years ago I asked the Committee on Indian Affairs to pass a resolution, and they passed it as a committee, but did not bring it into the House, calling for an in-

vestigation of the whole subject of the irrigation of these lands, in order that we might know something about it. I am very pleased to see that during the past year that work which the Indian Affairs Committee halted, or, rather, which they did not feel it was advisable to undertake, the Board of Indian Commissioners has undertaken. They have had an expert, a man skilled in Indian affairs, investigating conditions throughout the United States where these projects are located, and that gentleman has made an elaborate report, that is now available for the membership of the House. In that report alone he shows in the present bill where there can be saved to the Treasury of the United States a quarter of a million dollars. But gentlemen will stand on the floor of this House and say that this board is not of value to the Government.

Mr. Speaker, one thing more. Passing from that important item, there are many others that confront us immediately. One of the great points of controversy we have had buffeted back and forth during recent years is the condition of affairs in Oklahoma. I understand it was said a moment ago, in order that a little aspersion might be cast, perhaps, on the membership of this Board of Indian Commissioners, that one of its members, a distinguished professor from New England, traveled to Oklahoma and mussed things up. Thank God he "mussed things up." He mussed things up as they ought to have been mussed up long ago, and it is to be noted here and now that the present Democratic Commissioner of Indian Affairs put the sanction of his approval upon the report of that distinguished professor after he himself had made a personal investigation in Oklahoma; and, my dear sirs, if it is of any advantage to have in the consideration of Indian affairs knowledge, skill, advice from high-minded and disinterested men, whose thoughts are for the Indian and for the honor of the American people, then this Board of Indian Commissioners should be perpetuated with decency and distinction.

Now, another thing that this last year was performed by a member of the Board of Indian Commissioners. How many times has there appeared upon the floor of this House a controversy over whether or not the sawmill plant we built on the Menominee range in Wisconsin was a going concern or not, whether we had wasted and squandered the Indians' money, and whether we had squandered the Indians' property? What were the facts? I did not know. How many gentlemen here know? I have heard a great many conflicting statements made; but the subject, so far as I know, had never been investigated by a man who really understood the sawmill and lumbering business—until when? Until within the last year, when a member of this Board of Indian Commissioners, who is a distinguished and skilled lumberman, made such an investigation.

The SPEAKER. The time of the gentleman from Minnesota has expired.

Mr. MILLER. Mr. Speaker, I would like to have three minutes more, if I may. I ask the chairman of the Indian Committee to give me five minutes.

Mr. STEPHENS of Texas. I yield to the gentleman three minutes, Mr. Speaker.

The SPEAKER. The gentleman from Minnesota is recognized for three minutes.

Mr. MILLER. Then, Mr. Speaker, in addition to that, we have undertaken recently to do something in response to a demand that came from good people throughout the country that something should be done for the prisoners who are at the Fort Sill Reservation in Oklahoma, and the proposition was advanced to transport them from the prison reservation to the Mescalero Indian Reservation in New Mexico. We did it. I thought it was a wise step. But I think we squandered a lot of money in doing it. I think we were foolish in the way it was done. When I say "squandered" I do not think the object was inappropriate, but I think the amount appropriated was vastly in excess of the needs of the situation. There has, however, arisen a great deal of controversy over that. I have read it in the newspapers and have heard it stated on fairly decent authority that we had committed a great crime upon these people whom we have nursed in the lap of luxury for 50 years in setting them up in business for themselves, locating them on farms, and providing them with implements and equipments—that notwithstanding all this we had still committed a crime upon them. A member of this Board of Indian Commissioners went there and made an investigation of that, and his report is available.

So I might go on and show, item by item, how this board, composed of such men as I have described, have performed a notable service for the American Indians and the American people; and they have, every one of them, done it out of their own pockets, because not one cent has ever been paid by the Government, either for their expenses or for their time. They have had such a high-minded conception of their work that they have gone into their own pockets and paid for the work.

Now, it seems to me that under these circumstances we can in common decency only recognize them by giving them a decent appropriation; not $25,000, as suggested by the Senate, nor the paltry $4,000 that was passed by the House; but let us make it still a fair golden mean and grant the $10,000 suggested by the gentleman from Illinois.

The SPEAKER. The time of the gentleman from Minnesota has expired.

Mr. JOHNSON of Washington. Mr. Speaker, I would like to have five minutes.

Mr. STEPHENS of Texas. I yield five minutes to the gentleman, Mr. Speaker.

The SPEAKER. The gentleman from Washington [Mr. JOHNSON] is recognized for five minutes.

Mr. JOHNSON of Washington. Mr. Speaker, in the district I have the honor to represent we have some 12 or 13 tribes of Indians in one large and two or three small reservations. In spite of all the good work that is accredited to this Board of Indian Commissioners, I can not help but note the fact that the Indians away out on the Pacific coast seem to be getting a little bit worse off each year.

Regulations, rules, instructions, and orders are increasing in number. Nowadays the Quiniault Indians are even told when they may and when they may not go up and down their own river in their own boats. What the Indians have, or what they think they have, or what they hope to have, seems to be either controlled in one way or uncontrolled in another until each year the western Washington Indians seems to be in a little more distress or a little nearer starvation. I do not know that this board has ever been near the Quiniaults. I doubt if the board has, and if the board is so good and so valuable as has been stated, let me suggest that the great Quiniault Reservation offers a fine field of endeavor. Surely this board or any board of commissioners can not make matters worse and more uncertain than they are.

I am pleased to indorse what the gentleman from Texas [Mr. STEPHENS], the chairman of the Committee on Indian Affairs, has said in regard to the impossibility of getting rid of boards and commissions in all branches of the Government once they are started. Why, Mr. Chairman, we have before us this very day a rule brought in by the Democratic Rules Committee, which rule permits this Congress to act for the perpetuation and appointment of members of the Board of Managers of the National Home for Disabled Volunteer Soldiers. That is all very well, but it does seem as though the time should come when the number of members of that board could be reduced.

Who knows how many boards and commissions we have engaged in running this Government? More than anyone suspects, I venture, and still more being made. The State Department, I am told, has more commissions hanging onto it than any other, and some of them move in a mysterious way their wonders to perform. There is even now, I am informed, about to start for Great Britain a commission for the settlement of foreign claims. That commission was authorized originally, no doubt, for some particular reason, and it will never quit. There will always be claims ahead. I have heard that commission spent $180,000 last year to settle $8,000 worth of claims. I wish I had the exact figures. I am informed, too, that this commission expended $400 for inkwells. There must be some mistake about this report. Why, $400 worth of inkstands would be a carload of inkstands [laughter], and would provide for an awful lot of ink slinging.

But, Mr. Speaker, that is the way it goes—commission here and special board there; like the suckers, one is born every minute and none ever die, and if all these Federal commissions and boards have done no more for the whole country than the Board of Indian Commissioners have done for the fish-eating tribes of Washington State, then all should be abolished; the quicker the better. I support the position taken by the gentleman from Texas [Mr. STEPHENS].

The SPEAKER. The time of the gentleman from Washington has expired.

Mr. STEPHENS of Texas. Mr. Speaker, I move the previous question.

The SPEAKER pro tempore (Mr. WINGO). The gentleman from Texas demands the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question recurs on the amendment of the gentleman from Illinois [Mr. GRAHAM].

The question was taken, and the Speaker pro tempore announced that the "ayes" seemed to have it.

Mr. MILLER. Mr. Speaker, I demand a division.

The SPEAKER. A division is demanded.

The House divided; and there were—ayes 39, noes 24.

So the amendment was agreed to.

Mr. STEPHENS of Texas. Mr. Speaker, I ask that the next amendment be read.

The SPEAKER. The Clerk will report the next amendment.

Mr. MANN. Mr. Speaker, I asked for a separate vote a little while ago. I am willing that the rest of the amendments be considered together.

Mr. STEPHENS of Texas. Then I move, Mr. Speaker, that they be considered together.

The SPEAKER. The gentleman from Texas moves to further insist on the disagreement of the House to the Senate amendments—numbered what?

Mr. STEPHENS of Texas. Nos. 23, 27, 81, 82, 139, and 155.

Mr. BURKE of South Dakota rose.

Mr. STEPHENS of Texas. Mr. Speaker, I yield to the gentleman from South Dakota.

The SPEAKER. The gentleman from South Dakota [Mr. BURKE] is recognized.

Mr. BURKE of South Dakota. Mr. Speaker, I do not care to discuss any of the amendments that are still in disagreement, neither do I care to discuss the conference report, except to refer briefly to one Senate amendment which has been agreed to in conference with an amendment. I refer to Senate amendment 136, which as it has been agreed to is legislation that is just and that should have been enacted several years ago. It provides for the putting upon the rolls of the Five Civilized Tribes a number of persons who were omitted from the enrollment that closed on March 4, 1907. The Senate amendment only provided for enrolling these persons, but as agreed to in conference it not only provides for their enrollment, but fixes the amount of money each one will receive in lieu of an allotment, there being no tribal lands left for allotment. I have strenuously insisted for a number of years that these persons who are now added to the rolls should be enrolled before the affairs of the Five Civilized Tribes are closed up and the estate distributed. It was admitted that there were persons entitled to enrollment that were omitted from one cause or another, and it has always seemed to me that it was the duty of the Government to see that they were taken care of, and I have tried to convince the officials of the department, the tribal officials, and the Representatives from Oklahoma that they ought to make up a list of the persons that were manifestly entitled to be enrolled, and it is a source of much pleasure to me that this has finally been done and these persons will now be added to the rolls. This, in my opinion, will mean the closing up at an early date of the affairs of the Five Civilized Tribes, and will result in the final distribution of their estate. There may be some other claims for enrollment that ought to be inquired into and considered before there is a final settlement, notably the claim of the Mississippi Choctaws, but the provision agreed to in conference that I have just discussed will very materially facilitate the winding up of the affairs of the Five Tribes.

Mr. Speaker, I rose particularly to speak with reference to a portion of the bill on page 62, under the title, "Five Civilized Tribes." I was unavoidably absent from Washington when the Indian appropriation bill was reported from the Committee on Indian Affairs last January. I was also absent when the bill was considered in Committee of the Whole and when it passed the House. If I had been present when the bill was considered I would have opposed some of the legislation affecting the Five Civilized Tribes, and particularly the provision beginning on line 7, page 62, of the bill, which provides that the offices of the Commissioner of the Five Tribes and the Union Agency shall be consolidated and a commissioner authorized to be appointed by the President, by and with the consent of the Senate. My objection to this provision is that it proposes to take out of the classified service an important office and to fill it by a political appointment. I do not believe that it is in the interest of good administration or for the best interests of the Five Civilized Tribes. Our friends from Oklahoma defend this legislation by stating that it is in the interest of economy, eliminating an unnecessary position and making one official do the work that two now perform. When the last Indian appropriation bill was in conference there was a Senate amendment proposing this legislation, and I take some pride in saying that I was largely responsible, for the elimination in conference of that provision. We now have it, however, about to become a law, having passed the House and Senate, and know that after September 1 the position of Commissioner of the Five Tribes will be filled by an appointment by the President, to be confirmed by the Senate, and the position of union agent will be discontinued. This will mean that we will have a political appointee in place of the two efficient men who have served in these positions for so many years without a suggestion of corruption, malfeasance, or neglect of duty, whatsoever.

Mr. Speaker, when this matter was discussed in the House when the Indian appropriation bill was under consideration, gentlemen on the other side argued that it was in the interest of economy. I want to call their attention and the attention of the House to the fact that there is nothing to be saved by this legislation, and this is proved by the fact that the appropriation for the administration of the affairs of the Five Civilized Tribes is increased by this bill several thousand dollars over what it was in 1913 and over what it was in 1912. The Indian appropriation act approved August 24, 1912, appropriated "for expenses of administration of the affairs of the Five Civilized Tribes, Oklahoma, and the compensation of employees, $200,000." The act approved June 30, 1913, being for the fiscal year ending June 30, 1914, provides "for expenses of administration of the affairs of the Five Civilized Tribes, Oklahoma, and the compensation of employees, including such attorneys as the Secretary of the Interior may, in his discretion, employ in connection with probate matters affecting individual allottees of the Five Civilized Tribes, $250,000."

It will be noted that the appropriation for the last fiscal year includes such attorneys as the Secretary of the Interior may employ in connection with probate matters. This bill, as agreed to in conference, appropriates for expenses of administration and the compensation of employees $175,000, and, in addition thereto, $85,000 for salaries and expenses of attorneys and other employees as the Secretary of the Interior may deem necessary in connection with probate matters. Therefore, there is appropriated in this bill for administration purposes $265,000, or $15,000 more than was appropriated for the last fiscal year, and $65,000 more than appropriated for the previous fiscal year for the same purposes.

So, Mr. Speaker, it is certain that nothing is to be saved by this consolidation of offices, but, on the contrary, it is going to cost more money than it has cost heretofore.

There is another portion of this bill, providing for the administration of the affairs of the Five Civilized Tribes, that I do not indorse, although I am in favor of what is sought to be accomplished, and that is the provision that proposes an appropriation of $85,000 to enable the Secretary of the Interior to employ attorneys and other employees in connection with probate matters. I have heretofore strenuously advocated an appropriation to continue the employment of district agents, whose duty in part was to look after probate matters, and particularly with reference to the estates of minors. I favored such an appropriation against the opposition of my good friends from Oklahoma on the other side of the aisle. In connection with a discussion of this subject on a certain occasion it became necessary for me to present to the House charges that were very serious, and many now present will remember what I said in making public a report made by Mr. Mott, the national attorney for the Creek Nation, which showed a most deplorable condition in the different counties in that nation, demonstrating by the records of the county courts that it cost, on an average, to administer the estates of Indian minors about 20 per cent of the estate, as against about 3 or 4 per cent for administering the estates of white minors, this being about the average cost of administration throughout the United States. The gentlemen from Oklahoma on that side of the House denounced these charges as being false and without foundation, accused me of being sensational, and asserted that the courts of Oklahoma were competent to administer upon the estates of Indians without the interference of the Federal Government. I am very glad to know that these same gentlemen have apparently at last recognized that the charges as presented by the Mott report were true, which they now reluctantly admit, after having investigated them and after they were substantiated by an investigation made by the governor of Oklahoma, and after the present efficient Commissioner of Indian Affairs has declared publicly that the charges are true. And now our Oklahoma friends are supporting an appropriation of $85,000 to provide for the employment of attorneys, probate and others, to watch their county courts.

This is the only instance in American history where the Federal Government has been called upon to make an appropriation to protect the citizens of a State from being wronged by the courts of the State, and it would seem to me that the people

of Oklahoma ought to see to it that their courts do justice at the expense of the State, without calling upon the Government to provide an appropriation to pay for having their courts watched to see that minors are not robbed of what belongs to them. The district agents were employed in supervising the affairs of the Indians generally, and incidentally they were required to look after their interests in probate matters. I presume they received salaries of $1,200 or $1,500 a year, and they held their positions under the classified service. This appropriation of $85,000 to employ attorneys, like the provision consolidating the offices of commissioner and union agent, is undoubtedly for a political purpose. There are now, I believe, 21 of these probate attorneys, each drawing a salary of $2,500 per year and expenses, and all being political appointees. I maintain that everything that is being done at present with reference to the administration of the affairs of the Five Civilized Tribes in Oklahoma is with a view to political advantage and to create political jobs by doing away with those heretofore appointed through the classified service.

It will be remembered that when I made public in this House the report of Mr. Mott with reference to conditions in the Creek Nation the gentleman from Oklahoma [Mr. DAVENPORT] assailed Mr. Mott, referred to him as a carpetbagger, and boasted that he would be driven out of the service and out of Oklahoma. Mr. Mott's contract expired in February of this year. The principal chief of the Creek Nation, a Democrat in politics, wished to retain Mr. Mott as the attorney of the nation, but, notwithstanding this fact and that he was commended by the present Secretary of the Interior as having been an honest and courageous official, his contract was not approved, due to the protest that was made by Democratic Members of Congress from Oklahoma and other Democratic politicians from that State. The man selected to succeed Mr. Mott, I am pleased to say, is a good lawyer and a man of high character, and I compliment the administration on having apparently selected a good man for the position, but, Mr. Speaker, I want to emphasize that the change was made for a political purpose and also for the purpose of punishing Mr. Mott for being responsible for the charges that were brought to the attention of the House with reference to conditions in the county courts of the Creek Nation in Oklahoma in relation to the estates of Indian minors.

Mr. STEPHENS of Texas. Will the gentleman yield?

Mr. BURKE of South Dakota. Yes.

Mr. STEPHENS of Texas. Is it not a fact that Judge Allen, who is now holding the position that Mr. Mott held, was elected as a judge by the citizens of his district and is one of the best judges in Oklahoma?

Mr. BURKE of South Dakota. I can not say any more of Judge Allen than I have. It is true he was occupying the position of district judge in Oklahoma and resigned to take this position, and, as I have said, he is a gentleman, a man of high character, and, I believe, a good lawyer. I am not criticizing Judge Allen. I am simply pointing to the fact, Mr. Speaker, that politics will dominate in the Indian Service in Oklahoma from now on. I do not want to have this opportunity go by without calling attention to it. For a number of years we have had a commissioner to the Five Tribes and a union agent, who have efficiently administered the affairs of their offices in a manner that could not successfully be criticized or assailed, for during their entire administration there has never been a suggestion against the character, honesty, or the efficiency of these officials, but it is now proposed to eliminate them by the appointment of a politician by the President, and it can not be said, as I have already asserted, that it is in the interest of economy when this bill, as agreed to in conference, carries a larger appropriation than has been made heretofore for the administration of the affairs of the Five Civilized Tribes.

The SPEAKER. The time of the gentleman from South Dakota has expired.

Mr. STEPHENS of Texas. I yield to the gentleman five minutes more.

Mr. BURKE of South Dakota. Mr. Speaker, before I leave the subject of Mr. Mott, I want to bring to the attention of the House a circumstance that I think will be of interest at this time and to emphasize that what I have said is true that he was not permitted to continue as the attorney for the Creek Nation because of politics, he being a Republican, and for the purpose of punishing him for having honestly discharged his duty. Secretary Lane, in writing to the principal chief of the Creek Nation, Moty Tiger, referring to Mr. Mott, said:

> Mr. Mott is an honest man, an able man, and a courageous man.

The Secretary also addressed a letter to Mr. Mott after the matter of a contract had been made with another attorney, and Mr. Mott was authorized to make any use of it that he saw fit. The letter is as follows:

WASHINGTON, *February 14, 1914.*

M. L. MOTT, Esq.,
*Washington, D. C.*

MY DEAR MR. MOTT: Chief Moty Tiger and myself have agreed upon Judge Allen as your successor as attorney for the Creek Nation. The reason for this change is set forth in my letter to the chief, a copy of which is inclosed.

I shall always take pleasure in contemplating the manner in which you conducted yourself during the inquiry here. That you have been honest under difficulties and fearless at all times in doing your duty seems to be admitted even by those to whom you have been most antipathetic.

I am glad to know that you are going to return to Oklahoma, and I trust that by mingling freely with those people they will come to see you as a man of ideals.

Cordially, yours, FRANKLIN K. LANE.

Now, Mr. Speaker, with relation to Mr. J. George Wright, the present Commissioner of the Five Tribes, I want to say a word. Anticipating that some of my good friends on the other side of the aisle, from Oklahoma, will probably rise and talk about the "horde of political employees" that are employed in his office, I want to make a very brief statement.

Mr. J. George Wright, the present Commissioner to the Five Civilized Tribes, has been in his position for many years, having been transferred from the position of inspector on July 1, 1907. His office has been inspected personally by different Secretaries of the Interior, by several of the Assistant Secretaries, and the Assistant Attorney General for the department, as well as other department representatives, and without exception his administration has been found entirely satisfactory, and there never has been during his entire service any suggestion of inefficiency or wrongdoing upon his part.

We have repeatedly heard it asserted on this floor and elsewhere that the office of the commissioner is filled with political appointees and a large force of useless employees are on the pay rolls. I have made a careful inquiry to ascertain definitely the number of employees employed in the office of the commissioner or under him, and whether or not there is any foundation for the suggestion that they are politicians appointed from many States other than Oklahoma, and positions distributed as political patronage to Senators and Congressmen, as has been so often asserted.

On July 1, 1907, when Mr. Wright assumed his office, there were 181 employees; 61 were Republicans, 47 Democrats, 56 women, 27 of whom were connected with families considered Democratic and 24 of Republican families. There were also 16 colored janitors or messengers.

Mr. Wright was instructed by the Secretary of the Interior to make no changes except in the interests of the service. From that time to the present not a single appointment to a position in that office has been made except from an eligible list furnished by the Civil Service Commission, with the exception of three temporary stenographers and a few temporary employees that were authorized by the present Commissioner of Indian Affairs and approved by the present Secretary of the Interior.

As the work has approached completion the force has been reduced, until at present only 50 persons are employed, all of whom, with the exception of the two or three recent temporary appointees just mentioned, were employed in 1907, and have been retained because they were considered the most efficient. Of those now connected with the office only 12 are Republicans, 17 are Democrats, 18 are women, 10 being from Democratic families and 8 from Republican, and there are three colored messengers.

Mr. Speaker, in conclusion we find that a very efficient attorney, who has rendered able and valuable service to the Creek Nation, an attorney whom the nation desired to continue, has been let out and a Democrat appointed in his place, mostly because he is a Republican. We find that there have been positions heretofore in the classified service to quite a considerable number, known as district agents, probably drawing not more than $1,200 or $1,500 a year, that have been displaced by the appointment of attorneys drawing salaries of $2,500 a year and their expenses, the appointments being political. We find in this bill a provision to do away with the present commissioner and the union agent and put in his place a politician appointed upon the recommendation of our good friends from Oklahoma.

Mr. Speaker, I will leave it for the House to conclude what will follow after that change takes place. I might mention, in passing, that last year, after a similar provision was put in the Indian appropriation bill after it left this House, a bill was immediately introduced in another place which provided that all the moneys belonging to the Indians in Oklahoma should be withdrawn from the Treasury and deposited in the banks of Oklahoma under the supervision of the Secretary of the In-

terior, who would get his recommendations from the commissioner we now propose to appoint from Oklahoma.

When it is considered that there are many millions of dollars in the Treasury of the United States belonging to Indians in Oklahoma, it is apparent what it would mean if it could all be distributed throughout that State by placing it in banks selected by the commissioner, who will probably be named by those recognized by the administration in the distribution of political patronage. I would like to discuss this matter at greater length, but will not ask a further extension of time, in view of the desire on the part of the House to get this conference report out of the way in order to proceed with other business.

Mr. STEPHENS of Texas. Mr. Speaker, I yield five minutes to the gentleman from Oklahoma [Mr. FERRIS].

Mr. FERRIS. Mr. Speaker, I shall not indulge in any political colloquy with my good friend from South Dakota. These questions pertaining to the Indian affairs ought to rise above politics. They ought to be considered wholly with reference to the Indian welfare. To make sure that I make no mistake in the record I will present, I want to say that the record which I hold in my hand is from the Indian Office, and it is signed by Mr. Hauke, who was under the preceding Republican administration and is now one of the assistant commissioners of the Indian Office. He is still in the Indian Office, and has been for many years in that office, so it must be authentic. I want to say on January 8, 1908, Theodore Roosevelt, then President of the United States, issued an Executive order placing 126 men in the civil service that had been prior thereto politically appointed and considered political appointees, and their names and salaries I have here, and I will put them in the RECORD.

Mr. BURKE of South Dakota. Does the gentleman mean that the letter——

Mr. FERRIS. Just let me proceed for a moment. I desire to say on July 12, 1910, William Howard Taft, then President of the United States, issued an Executive order covering 40 appointees that had been made by the Republican State chairman, the Republican national committeemen, the Republican Delegates in Congress, and the Republicans who had been looking after their faithful. There can not be any doubt about the fact, and they went into the civil service under that order, and the names of the men and the salaries are in my hands, which I will place in the RECORD, so there can not be any doubt about that. On October 9, 1908, again Theodore Roosevelt issued an Executive order, a copy of which I hold in my hand, and the names and salaries I have, covering an aggregate of 129 in number into the classified service by Executive order. That is the record of the Republican Party in Oklahoma in building up conditions in Oklahoma. That is an example of their strict adherence to civil service.

Mr. MILLER. Will the gentleman yield?

Mr. FERRIS. Let me proceed; the Chairman desires me to get through as soon as possible, and I want to get through, and I do not desire to get in any long-winded, civil-service, political controversy about this affair. I only do it now to let the truth come into a situation that needs to be understood. I want to say to the gentleman who complains of this exact provision for the Five Civilized Tribes that we reduced the item from $250,000 of last year to $175,000 this year and got rid of a duplication that should have been abolished years ago.

Mr. BURKE of South Dakota. Now, that is not fair. The gentleman does not want to make that statement.

Mr. FERRIS. I do want to make that statement.

Mr. BURKE of South Dakota. Then the gentleman is making a misstatement.

Mr. FERRIS. I do not do any such thing. The amount carried in the last Indian appropriation bill was $250,000. This is reduced to $175,000. There is no mistake about that. Figures can not lie. The gentleman can assail my integrity and the statement, but the bill speaks for itself. Now, let us proceed a little further. The gentleman says that this does not work economy, and says we do not get rid of any of the officers, and we do not do any good for the people of Oklahoma, and that it is a case of playing politics. If there ever has been a case in the country where politics ran at fever heat and politics knew no bounds, it has been the administration of the affairs of Oklahoma by the Republican Party. I do not wish to irritate anybody on the other side, but, Mr. Speaker, I am a Representative in Congress from Oklahoma. Oklahoma with her 117,000 Indians has been made the football of this House long enough. I do not say that there are no irregularities in Oklahoma; of course not. There are irregularities in Oklahoma; there is graft in places in Oklahoma, and probably always will be. There is no question about that. There is graft with the people of South Dakota. There is no doubt about that. There are in Minnesota, anywhere in the world, and in every State and in every country where we have a weak people and a strong people living side by side. There always will be irregularities and some graft. I have asserted before in this House, and I will assert it again now, that within our State there reside practically one-half of all the Indians of the United States; there are no more irregularities, there is no more graft, there is no more mistreatment of the Indians than there is in any other State in the Union, and I doubt if there is half as much. Now, another suggestion to this House: I had not intended to get into a general colloquy on this subject, but my heart runs over to hear our State assailed continuously with the same old speech every year, and it ought not to go unchallenged, and it shall not longer go unchallenged.

The SPEAKER. The time of the gentleman has expired.

Mr. FERRIS. May I have a couple of minutes more?

Mr. STEPHENS of Texas. I yield two minutes additional to the gentleman.

Mr. FERRIS. In most of the States the Indians have no part in society; in most of the States the Indians have no voice, for they can not even vote. In our State each and every one is a full citizen and is entitled to vote and can do anything that any other citizen is entitled to do. It so happens that our governor is an Indian; our lieutenant governor is an Indian citizen; our legislature has a large contingent of Indian citizens, a per cent proportionate to our population of State officers are Indian citizens, one of our United States Senators is an Indian citizen and three of our House Members of Congress are Indian citizens. You see how badly treated the Indians are in our State. Oh, it is easy for a man who knows little of the facts to assert it is filled with graft and all sorts of trouble. I again repeat, we admit we have some graft, we do admit some trouble, we have taxation burdens that are heavy to bear, a State that is less than 7 years of age, with more than 50 per cent of its property off the tax rolls, but in our new State our load is almost more than we can bear, still we are assaulted. There are no greater wrongs there than in any other State with a like Indian population. If there is a single thing that can be suggested by any man here or elsewhere that will improve the condition I want to say I am for it. I never bought a town lot or an acre of Five Tribes Indian land in my life, and I do not own one now that ever belonged to the Five Civilized Tribes.

I can speak dispassionately about this. Much of this noise is politics; much of it is to hold jobs for people who ought to be discharged. Too much ill-advised loose talk occurs here and in the papers by politicians and faddists. If they want to really help the Indians, they ought to help secure the fulfillment of his treaties and assure him his rights.

I say that the Five Civilized Tribes in Oklahoma—no Indian tribe has more money per capita—has as much intelligence per capita, has as much ability to play its part in society, as any Indian people in this country and as much as most white people of similar environments and training. To say that these people are dependent, depleted, and polluted is a lie on the lips of the man who utters it.

The Indian problem is everywhere where Indians are found. It is not alone in Oklahoma. I shall not try to say that there is no irregularity there, for there is, but it is not all in our State. [Applause.]

I will insert for the benefit of my Republican friends across the aisle the three Executive orders of their two Republican administrations, and let them know how these patriots got into the civil service.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
*Washington, April 23, 1913.*

Hon. SCOTT FERRIS,
*House of Representatives.*

SIR: In accordance with my letter of April 8, 1913, I am transmitting herewith copies of the Executive orders issued by ex-Presidents Roosevelt and Taft, affecting employees in the State of Oklahoma, and lists showing the names, positions, and salaries of persons classified thereunder.

Respectfully,

C. F. HAUKE, *Acting Commissioner.*

EXECUTIVE ORDER.

The 126 employees of the Union Agency, of which a list has been furnished the Civil Service Commission by the Secretary of the Interior, and who are carried in the agents' accounts as irregular labor outside the classified service, may be continued without examination under the civil-service rules as a temporary expedient, in view of the impossibility of dispensing with or changing the present force. No addition shall, however, be made to the force, except in accordance with the civil-service rules; nor shall the present employees be transferred to positions outside of that agency.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *January 8, 1908.*

*List of persons classified by Executive order of January 8, 1908, affecting 126 employees at the Union Agency, Okla.*

| Name. | Position. | Salary per month. |
|---|---|---|
| Fred Rains | Chief clerk, leasing division | $135.00 |
| M. F. Earley | Chief clerk, royalty division | 125.00 |
| Frank G. Janeway | Clerk | 115.00 |
| Henry G. Hains | ....do | 100.00 |
| Russell I. Hare | ....do | 100.00 |
| William F. Hurt | Stenographer | 100.00 |
| E. M. Morton | Clerk | 100.00 |
| W. S. Boren | ....do | 90.00 |
| John H. Cunningham | ....do | 90.00 |
| Charles R. Gilmore | ....do | 90.00 |
| David Buddrus | ....do | 85.00 |
| John E. Brasel | ....do | 85.00 |
| Frank A. Kemp | ....do | 85.00 |
| Edna E. Smith | Stenographer | 85.00 |
| Lucy M. Bowman | ....do | 85.00 |
| F. H. Walkup | Clerk | 85.00 |
| Nellie M. Emerson | Stenographer | 85.00 |
| Elmer E. Merriss | ....do | 80.00 |
| Breeze Peery | ....do | 80.00 |
| John Q. Adams | Clerk | 80.00 |
| Cora E. Gendenning | Stenographer | 75.00 |
| John Martin | Clerk | 50.00 |
| John B. O'Neill | Chief clerk, sales division | 125.00 |
| E. C. Backenstoce | Appraiser | 125.00 |
| A. G. McGregor | ....do | 125.00 |
| Raymond Short | Clerk | 90.00 |
| W. F. Shewey | ....do | 90.00 |
| Arthur R. Taylor | ....do | 90.00 |
| Robert W. Quarles, jr | ....do | 85.00 |
| J. F. Kennedy | ....do | 85.00 |
| Geo. C. Bullette | Stenographer | 80.00 |
| Blanche B. Morton | ....do | 80.00 |
| James B. Myers | ....do | 80.00 |
| A. A. Mitchell | Clerk | 80.00 |
| John Spangenberg | ....do | 80.00 |
| Geo. M. McDaniel | ....do | 80.00 |
| Louis F. Stempson | ....do | 80.00 |
| Edward Short | ....do | 80.00 |
| C. W. Moore | ....do | 80.00 |
| James L. Granger | ....do | 75.00 |
| R. R. Settle | ....do | 75.00 |
| S. F. McCluney | Stenographer | 75.00 |
| L. Maude Hunter | ....do | 75.00 |
| J. E. Williams | Clerk | 65.00 |
| Jayne Williams | Stenographer | 60.00 |
| Perry F. Hewitt | Chief clerk, Town Lot Division | 110.00 |
| Earl Bohannon | Clerk | 100.00 |
| W. L. Hammond | ....do | 85.00 |
| Ada Powell | Stenographer | 80.00 |
| Byron E. Sheffield | Clerk | 75.00 |
| S. A. Mills | Field clerk | 115.00 |
| Frank Robb | ....do | 100.00 |
| Wm. H. VanDoran | ....do | 100.00 |
| Ernest Brown | Stenographer | 85.00 |
| W. W. Bennett | Chief clerk, Intruder Division | 135.00 |
| P. J. Hurley | Clerk | 85.00 |
| W. F. Harn | ....do | 85.00 |
| Laurie Bronson | Stenographer | 85.00 |
| Loe May Long | ....do | 85.00 |
| Agnes Schneider | ....do | 85.00 |
| Anna E. Jay | ....do | 85.00 |
| W. W. Cornelius | ....do | 85.00 |
| Robert R. Bennett | Clerk | 80.00 |
| Leo Ludlow | ....do | 80.00 |
| Georgia H. Coberly | Stenographer | 80.00 |
| W. D. Ford | Chief clerk, Restriction Division | 125.00 |
| H. C. Cusey | Clerk | 135.00 |
| Edward P. Champlin | ....do | 100.00 |
| C. M. Smith | ....do | 90.00 |
| R. F. Klatt | ....do | 85.00 |
| Oliver K. Chandler | Stenographer | 85.00 |
| Katherine B. Porter | ....do | 85.00 |
| Myrta Sams | ....do | 85.00 |
| R. E. Semple | ....do | 85.00 |
| Josie L. Goble | ....do | 85.00 |
| Mary P. Bickford | ....do | 80.00 |
| Elizabeth Knight | ....do | 80.00 |
| Naomi Lammers | ....do | 65.00 |
| Edith Hubbard | Clerk | 65.00 |
| Janet K. Langenberg | ....do | 60.00 |
| Joe Leasley | ....do | 40.00 |
| William Kremer | Stenographer | 110.00 |
| N. Lucelle Pagett | ....do | 80.00 |
| Earl L. Woodruff | Clerk | 75.00 |
| Joe Jones | Janitor | 40.00 |
| Roy Cooper | ....do | 35.00 |
| Robert Jones | ....do | 35.00 |
| Goree Marsh | ....do | 25.00 |
| Philip A. Harrison | Clerk | 125.00 |
| Emmett A. Fagin | ....do | 125.00 |
| Henry H. Hubbard | ....do | 100.00 |
| Emilie V. Corbut | Stenographer | 90.00 |
| Lilian M. Cass | ....do | 85.00 |
| Snowden P. Morrison | Clerk | 85.00 |
| Marian B. Sawyer | ....do | 83.33 |
| W. R. Snyder | ....do | 75.00 |
| Geo. L. Hutchins | ....do | 65.00 |
| Charles O. Shepard | ....do | 150.00 |
| Vacant | Stenographer | 85.00 |
| John J. Lyons | Field clerk | 85.00 |
| Charles V. Pyle | ....do | 85.00 |
| Louise Garry | Stenographer | 50.00 |
| John G. Hough | Field clerk | 100.00 |
| Minnie T. Bassett | Stenographer | 90.00 |

*List of persons classified by Executive order of January 8, 1908, etc.*—Con.

| Name. | Position. | Salary per month. |
|---|---|---|
| Ethel Daugherty | Stenographer | $75.00 |
| John Viets | Field clerk | 100.00 |
| Hilda Nitchy | Stenographer | 85.00 |
| G. I. Ferguson | Clerk | 75.00 |
| Charles L. Reed | Chief clerk, Roads Division | 100.00 |
| Eldon Lowe | Field clerk | 100.00 |
| Homer J. Councilor | Clerk | 85.00 |
| Richard Kessel | Cashier | 125.00 |
| W. E. Hiskey | Assistant cashier | 120.00 |
| John W. Stewart | Clerk | 80.00 |
| Zac Farmer | ....do | 65.00 |
| Chester J. Klick | ....do | 75.00 |
| T. J. Tanner | ....do | 75.00 |
| George W. Wachtel | ....do | 100.00 |
| James F. McClean | ....do | 100.00 |
| Charles B. Wilson | ....do | 85.00 |
| Meda Potter | Stenographer | 85.00 |
| Lillian Stantorf | ....do | 75.00 |
| William V. Stewart | Clerk | 75.00 |
| Horace Wilson | ....do | 50.00 |
| Rachel Abbott | Stenographer | 50.00 |
| J. R. Taylor, jr | Clerk | 100.00 |
| Mabel L. Shoults | Stenographer | 85.00 |

EXECUTIVE ORDER.

Those persons who were employed on June 30, 1910, or within the year preceding, as district agents and assistant district agents (local representatives of the Secretary of the Interior in Oklahoma) and who are certified by the Secretary of the Interior as competent and efficient may be retained, but shall not by such retention obtain a competitive status; and all vacancies which may occur in said positions shall be filled by the transfer of persons properly serving in the Indian Service under the Commissioner to the Five Civilized Tribes or in the Union Agency.

It was at first thought that the demand for the services of these employees would be temporary, but when it was found that the work would be likely to continue for several years it was deemed advisable by the Interior Department and the Civil Service Commission to make provision for the retention of those employees' services who have been found competent and efficient and to provide for filling future vacancies by transfer.

WM. H. TAFT.

THE WHITE HOUSE, *July 12, 1910.*

*List of persons classified by Executive order of July 12, 1910, classifying district agents and assistant district agents (local representatives of the Secretary of the Interior in Oklahoma).*

| Name. | Position. | Salary. |
|---|---|---|
| William A. Baker | Supervising district agent | $2,000.00 |
| Roscoe S. Cate | ....do | 2,000.00 |
| Charles J. Hunt | Special assistant district agent | 1,500.00 |
| Henry C. Cusey | District agent | 1,800.00 |
| Frank B. Long | ....do | 1,800.00 |
| James H. N. Cobb | ....do | 1,800.00 |
| Thomas J. Farrar | ....do | 1,800.00 |
| Fred S. Cook | ....do | 1,800.00 |
| Arthur W. Dunnagan | ....do | 1,800.00 |
| Nelson E. Sisson | ....do | 1,800.00 |
| Vernon Whiting | ....do | 1,800.00 |
| Charles Wilson | ....do | 1,800.00 |
| Herbert G. House | ....do | 1,800.00 |
| Sherman G. Brink | ....do | 1,800.00 |
| John Cordell | ....do | 1,800.00 |
| William H. Reynolds | ....do | 1,800.00 |
| Daniel A. Crafton | ....do | 1,800.00 |
| James E. Dyche | ....do | (1) |
| Edmond C. Backenstoce | ....do | 1,800.00 |
| Charles Bozarth | Assistant district agent | 1,200.00 |
| Van H. Johns | ....do | 900.00 |
| Charles W. Kellogg | ....do | 900.00 |
| C. E. Bearse | ....do | 900.00 |
| Edward L. Gelder | ....do | 900.00 |
| Charles L. Thompson | ....do | 900.00 |
| Roy Lee Black | ....do | 900.00 |
| Loyd B. Locke | ....do | 900.00 |
| James W. Rodgers | ....do | 900.00 |
| Doyle Norman | ....do | 900.00 |
| Mac Seeley | ....do | 900.00 |
| A. Lisle Irvine | ....do | 1,200.00 |
| Earl H. Coulter | ....do | 1,200.00 |
| Earl Lockwood | ....do | 900.00 |
| Alexander Crain | ....do | 900.00 |
| Harry T. Crittendon | ....do | 1,200.00 |
| Clarence A. Stevens | ....do | 900.00 |
| Grattan G. McVay | ....do | 900.00 |
| D. E. Ackerman | ....do | 900.00 |
| K. B. Drake | ....do | 1,020.00 |

[1] Resigned.

EXECUTIVE ORDER.

Prior to February 12, 1908, various places in the executive civil service were filled without compliance with the requirements of the civil-service act and rules, because the appointing officers were of the opinion that the terms of an appropriation act or some circumstance implied exception from such requirements. On February 12, 1908, the Attorney General rendered an opinion holding in effect that all places in the executive civil service except those mentioned in Schedule A of the rules and except persons employed merely as laborers and per-

sons whose appointments are subject to confirmation by the Senate, must be filed as a result of open competitive examinations held under the provisions of the law, and that Congress in the exemption of any position or class of positions from the operation of the civil-service act must use language indicating clearly and affirmatively its intention that the civil-service rules should not be applied.

Persons whose names are reported to the Civil Service Commission in response to this opinion and who are occupying places whose duties are similar to those of competitive positions may be classified upon approval by the commission, but may be transferred only when in the opinion of the Civil Service Commission such transfer is required in the interest of the service, and then only after an appropriate examination by said commission. Vacancies shall be filled in accordance with the civil-service act and rules. If said commission finds that any of these places can not be satisfactorily subjected to competitive tests they may be treated as excepted from examination and their occupants shall not acquire a competitive status.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *October 9, 1908.*

*List of persons classified as additional farmers by Executive order of Oct. 9, 1908, who were employed in Oklahoma at that time.*

| Name. | Agency. | Salary per month. |
|---|---|---|
| William H. Wisdom | Cantonment | $50.00 |
| Charles W. Ruckman | Cheyenne and Arapahoe | 65.00 |
| John P. Logan | do | 60.00 |
| Homer W. Dunbar | Kiowa | 75.00 |
| Thomas F. Woodard | do | 60.00 |
| Thomas J. Pritchett | do | 60.00 |
| Walter D. Silcott | do | 60.00 |
| Reuben R. Hickox | do | 60.00 |
| Aubra C. Birdsong | do | 60.00 |
| George S. Bennett | Otoe | 60.00 |
| Allen C. Thorp | Pawnee | 60.00 |
| Fred S. Bever | do | 60.00 |
| George W. Brewer | Ponca | 60.00 |
| Victor E. Norton | do | 60.00 |
| Garrett C. Brewer | do | 60.00 |
| John O. Arnold | Sac and Fox | 60.00 |
| John H. Seger | Seger | 75.00 |
| Henry H. Hiebert | do | 50.00 |
| Peter P. Ratzlaff | Shawnee | 65.00 |
| James H. Odle | do | 65.00 |

*List of persons classified in the office of the commissioner to the Five Civilized Tribes, Oklahoma, under the Executive order of Oct. 9, 1908.*

| Name. | Position. | Salary. |
|---|---|---|
| J. George Wright | Commissioner | $5,000.00 |
| Dixon H. Bynum | Chief clerk | 2,200.00 |
| George N. Wise | Chief disbursing agent | 2,000.00 |
| W. S. D. Moore | Clerk | 2,000.00 |
| Arthur F. McGarr | Law clerk | 1,800.00 |
| Warren P. Chaney | do | 1,800.00 |
| William H. Angell | Clerk | 1,800.00 |
| William M. Crawford | do | 1,800.00 |
| Sterling C. Pitts | do | 1,800.00 |
| Emmett A. Fagin | do | 1,620.00 |
| Charles E. Bliss | Law clerk | 1,600.00 |
| John O. Rosson | Clerk | 1,600.00 |
| J. T. Hockman | Law clerk | 1,500.00 |
| Schuyler A. McGinnis | do | 1,500.00 |
| Philip A. Harrison | Clerk | 1,500.00 |
| Anna Bell | do | 1,500.00 |
| William T. Martin | do | 1,500.00 |
| Edwin C. Ryan | do | 1,500.00 |
| Frances R. Lane | do | 1,380.00 |
| Albert G. McMillan | Stenographer | 1,320.00 |
| William L. Martin | Clerk | 1,320.00 |
| Henry J. Ward | do | 1,320.00 |
| Henry McCoy | Draftsman | 1,320.00 |
| Lilian M. Cass | Stenographer | 1,200.00 |
| Emilie V. Corbut | do | 1,200.00 |
| O. C. Hinkle | do | 1,200.00 |
| Vester Rose | do | 1,200.00 |
| W. P. Covington | do | 1,200.00 |
| Julia C. Laval | do | 1,200.00 |
| A. Lisle Irvine | do | 1,200.00 |
| Charles Bozarth | do | 1,200.00 |
| Nina Ellen Coffey | do | 1,200.00 |
| Glen W. Hunt | Clerk | 1,200.00 |
| Wm. D. Johnston | do | 1,200.00 |
| Andrew J. Gardenhire | do | 1,200.00 |
| John E. Tidwell | do | 1,200.00 |
| Philip L. Snyder | do | 1,200.00 |
| Richard M. Phillips | do | 1,200.00 |
| James C. Kennedy | do | 1,200.00 |
| Martin J. Mueller | do | 1,200.00 |
| Edwin C. Motter | do | 1,200.00 |
| Rufus E. Bateman | do | 1,200.00 |
| Patrick E. Boyle | do | 1,020.00 |
| Edward C. Funk | do | 1,200.00 |
| John J. Johnston | do | 1,200.00 |
| Thomas C. Humphry, jr | do | 1,200.00 |
| John J. Kelly | do | 1,200.00 |
| William W. Folsom | do | 1,200.00 |
| Charles B. Gerard | do | 1,200.00 |
| Harry Hood | do | 1,200.00 |
| H. C. F. Hackbusch | do | 1,200.00 |
| Charles A. Burdine | do | 1,200.00 |
| A. P. Conant | do | 1,200.00 |
| S. E. Floren | do | 1,200.00 |
| Florence Hare | do | 1,200.00 |
| William C. Garrett | do | 1,200.00 |

*List of persons classified in the office of the commissioner to the Five Civilized Tribes, Oklahoma, etc.*—Continued.

| Name. | Position. | Salary. |
|---|---|---|
| Lacey P. Bobo | Surveyor | $1,200.00 |
| Carl Patterson | do | 1,200.00 |
| Henry M. Tidwell | do | 1,200.00 |
| W. N. Brown | Clerk | 1,080.00 |
| Alma Miriam Kline | Stenographer | 1,020.00 |
| Blanch Ashton | do | 1,020.00 |
| Lenora B. Ashton | do | 1,020.00 |
| Louise Smith | do | 1,020.00 |
| Helen A. Smith | do | 1,020.00 |
| Raphael Lowrey | do | 1,020.00 |
| Lillian K. Pierce | do | 1,020.00 |
| Walter W. Chappell | Clerk | 1,020.00 |
| Pat E. Trent | do | 1,020.00 |
| Richard Shanafelt | do | 1,020.00 |
| Edwin G. Robbins | do | 1,020.00 |
| Martyn H. Bennett | do | 1,020.00 |
| Robert Muldrow, jr | do | 1,020.00 |
| William R. Snyder | do | 1,020.00 |
| James M. Conlin | do | 1,000.00 |
| Marian B. Sawyer | do | 1,000.00 |
| Fay E. Blanchert | Stenographer | 900.00 |
| Harry Montague | do | 900.00 |
| Wilma S. Smith | do | 900.00 |
| Susie E. Vaulx | do | 900.00 |
| Frank L. Doble | do | 900.00 |
| Lee G. Grubbs | do | 900.00 |
| Ella Bailey | do | 900.00 |
| Olive Bradley Moore | do | 900.00 |
| Mamie Tabor | do | 900.00 |
| Anna Vansant | do | 900.00 |
| Mattie M. Pace | do | 900.00 |
| Maggie Kennedy | do | 900.00 |
| Lucy Phillips | do | 900.00 |
| Grace G. Coberly | do | 900.00 |
| Lucile Walrond | Clerk | 900.00 |
| Milburn C. Harper | do | 900.00 |
| Walter A. Rambo | do | 900.00 |
| Lewis W. Pitts | do | 900.00 |
| Abbie Conner | do | 900.00 |
| Welcom C. Moore | do | 900.00 |
| W. F. Hassell | do | 900.00 |
| John Sharron | do | 900.00 |
| George W. Huckins | do | 900.00 |
| Charles H. Drew | Interpreter | 900.00 |
| Jacob Homer | do | 900.00 |
| Jesse M. Vance | Clerk | 720.00 |
| Lelia Cohenour | do | 720.00 |
| Elizabeth A. DeVasher | do | 720.00 |
| Harriett E. Drake | Stenographer | 720.00 |
| Helen C. Bradley | do | 720.00 |
| Ethel Hubbard Long | Clerk | 600.00 |
| Mary L. Davis | do | 600.00 |
| J. Whitney King | do | (1) |

[1] $3 per diem.

Mr. McGUIRE of Oklahoma. Mr. Speaker, I would like to have five minutes.

Mr. STEPHENS of Texas. I yield five minutes to the gentleman from Oklahoma.

Mr. McGUIRE of Oklahoma. Mr. Speaker, I do not care to enter into any political discussion, but my colleague from Oklahoma has presented some figures of which I was not aware. But I do know something of the facts in respect to whether politics has entered into the Government control of the Indian affairs in Oklahoma in the last 12 years during my service in this House. I want to say that the Republican chairmen of the State of Oklahoma at no time have requested the President of the United States, either Mr. Taft or Mr. Roosevelt, to cover into the civil service by special order a single individual. And I take it that those names that the gentleman has presented—and I am not criticizing him, as he has the order—were covered into the service at the request of the Civil Service Commission, or rather, Mr. Wright, at the head of the Dawes Commission. And I want to say this: That I have made investigation a number of times, because I have been in politics in that State, as to the political complexion of those employed by the Dawes Commission. And there has never been a minute or a day in the last 12 years when a large majority of those people were not Democrats. Some years ago there was a bill passed creating special agents down there. We had a right under the bill to make those places political. I went to Mr. Wright and requested one person only of the number to be appointed, and I finally had to appeal to the President of the United States before I could get one man appointed as a district agent. And when they were through appointing, what was the personnel of the appointments, all of whom could have been appointed by reason of their political convictions? When they were through appointing them it was found that a large number of them were appointed by Mr. Wright from the civil-service employees at that time employed by the Dawes Commission.

There never has been a time in that State when there were not as many Indian superintendents who were Democrats as there were those who were Republicans. I have made no com-

plaint, but I say here and now that when it is charged at the doors of my party and my State that we have controlled the Indian Service in that State, and the Territory, when it was a Territory, or that it was controlled by the Republicans or the Republican Party, it is an unjust accusation, because it is just about as completely under the influence of the civil service and civil-service domination as you can ever hope to have the civil service dominate anything in this country.

Recently another bill was passed, as mentioned by the gentleman from South Dakota [Mr. BURKE]. I do not blame my good friends from Oklahoma, if they can get the jobs, and I want to tell you there are about as many boys that have jobs in that State as in any State in the Union; more officials, in my judgment, in my State, in proportion to the population, than in any other State in the Union. But under the recent provision, I say, the attorneys, whose duty it is to consult with the probate judges, to my knowledge are appointed from the most active politicians in that State. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEPHENS of Texas. How much time does the gentleman from Illinois [Mr. MANN] want?

Mr. MANN. Five minutes.

Mr. STEPHENS of Texas. Then I will move the previous question.

Mr. MANN. I may want a little more time. I wish to make an inquiry. There are three amendments in dispute that relate to the irrigation of Indian lands, and which I suppose will go back to the conference on the motion made to disagree. One of them is as to the Flathead Reservation, where we have provided for the reimbursement of the expenditures which we make out of the sale of the surplus land and the timber sold. Amendments 81 and 82 relate to that matter. So I want to ascertain, if I can, from somebody something about this expenditure. There are a number of these items in the bill where we advance the money to be reimbursed out of the Indian funds, and we pay the interest. Is that the way it goes? It is at our expense that we furnish the money, is it?

Mr. STEPHENS of Texas. It is a trust fund, as I understand, in the hands of the United States for the purpose——

Mr. MANN. This is not any trust fund. This is a fund appropriated out of the Federal Treasury, with the provision that it shall be reimbursed when the Indians have funds to their credit.

Mr. STEPHENS of Texas. You then speak of the reimburseable items. These two are the reimbursable items. As I understand it, these Indians all have property to be sold.

Mr. MANN. Here is what I want to get at: I will put a specific case. On the Flathead Indian Reservation there is an irrigation project which, I think, is to cost six or eight million dollars before it is finished. We have been advancing the money in small amounts, to be reimbursed out of the sale of the lands. Meanwhile, as the irrigation project proceeds, we sell the surplus land to people who get on there and cultivate it under the irrigation project. Those people pay back the money in the course of 20 years' time. If there is any fund belonging to the Indians, that is to be paid into the Treasury of the United States and reimburse the money that we have advanced. That may be before the 20 years have expired. Now, as the settlers only pay back their full amount in 20 years, and pay no interest upon it, the Indians will be out the interest for the use of their funds for a number of years. Who is going to pay that? If they have funds in the Treasury which are not used to reimburse advances, they draw interest upon them. It looks to me—and I ask for information—as though in our generosity we were advancing a large sum of money in this case, and large sums in other cases, in order to provide irrigation projects where we sell the lands to our white brothers, payable back in 20 years' time, and do it at the expense of the Indians.

We do not pay them any interest. As soon as they have any money we transfer it to our own account, and they are out the interest until the money is paid back into the fund.

Mr. BURKE of South Dakota. I want to say to the gentleman yield?

Mr. MANN. Yes; certainly; I yield to anybody who has information on this subject.

Mr. BURKE of South Dakota. I want to say to the gentleman that I do not think he has the correct conception——

Mr. MANN. Well, pass that by, and give me information——

Mr. BURKE of South Dakota. With reference to these Indian irrigation projects. I want to call the gentleman's attention to a fact that may have escaped his notice, and that is that no new Indian reclamation project has been commenced within the last few years. The projects referred to in this bill were all begun several years ago.

Mr. MANN. The gentleman is mistaken about that; but we will pass that by, too.

Mr. BURKE of South Dakota. Now, as to the situation on the Flathead Indian Reservation, here was a tribe of Indians on a reservation, roaming over the country, being supported mostly by the Government, and their lands not doing them any good. A law was passed by Congress—whether it was passed as the result of an agreement or not I do not remember—by which the Indians on that reservation were to be allotted, each receiving a certain amount of land. That did not do the Indian any good. He could not do anything with his land after it was allotted to him, so the law provided that the surplus lands should be opened to settlement under the homestead laws and the price of the land was to be fixed by appraisement. Then it was provided that the proceeds received from the sale of the land should be used for the purpose of constructing a reclamation project and furnishing water to the homesteaders and to the Indians, thereby making it possible for those people, Indians and whites, to exist.

Mr. MANN. Was that in the original law?

Mr. BURKE of South Dakota. Yes, sir. Now the homesteader pays, as I recall, upon this reservation $7 an acre for the lands as a price that goes to the Indian.

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to move the previous question.

Mr. MANN. Oh, the gentleman should not do that. I desire to have at least five minutes more.

Mr. STEPHENS of Texas. Then at the end of that time I will serve notice on the House that I will move the previous question.

Mr. MANN. I would like to have a little time.

The SPEAKER. The gentleman from Illinois is recognized for five minutes more.

Mr. BURKE of South Dakota. The homesteader has to sign up and he has to pay the reclamation charge, in addition to the $7 an acre that goes to the Indian. The United States in the first instance advances the money. Then it is expected that as the homesteader pays for the surplus land and from the sale of the timber, for which there has been no market and never will be until we develop the country, the cost of the reclamation project will be reimbursed to the Government.

The loser in the transaction, in my judgment, is the United States, not the Indian. He does not part with anything. He is getting his land irrigated. He is getting his allotments made extremely valuable, not only so that he can support himself thereupon, but adding to the value so that lands that were worth $7 an acre will be worth from $100 to $150 an acre, and if the project works out as it is hoped it will the money will all be returned to the Indian, and he will have the benefit of the reclamation. It may be that for a certain time the United States will have considerable money in this project without any interest.

Mr. DONOVAN. Mr. Speaker, I would like to inquire who has the floor?

Mr. MANN. I submit, Mr. Speaker, that a parliamentary inquiry is not in order. The gentleman from Connecticut can not take me off the floor by a parliamentary inquiry.

The SPEAKER. The gentleman from Illinois is correct.

Mr. BURKE of South Dakota. I say, it may be that for a certain time the United States will have money in this project without any interest; but let me say to the gentleman that not in this generation and possibly not in the next would there be any money for anybody if there had not been legislation providing for the sale of the surplus land and the timber and providing for the construction of a reclamation project.

Mr. MANN. Mr. Speaker, the gentleman from South Dakota usually gives information, but in this case he has not given me any information. I knew all that he has stated, because I have looked it up, and it is a matter of record. But the gentleman has not yet told who will pay the interest on this sum while the Indians are out of its use. When the Indian land is sold there is taken out of their fund and reimbursed to the Treasury the amount of money which the Government of the United States has advanced, but the settlers have not yet paid in that money as a part of the construction charge, so that the Indians are out of the use of that money, and they lose the interest on it.

Mr. BURKE of South Dakota. Mr. Speaker, if the gentleman, from Illinois will permit, there is not any money until the purchaser and the settler pays it in.

Mr. MANN. The gentleman is mistaken about that. Of course they pay in some money, but the settler pays for the land, and where the Government sells timber the timber money

is also paid into the Treasury. That is used to reimburse the Treasury, but the settler has not yet paid in the construction charge in full and will not for years, and meanwhile the settler gets the benefit of the interest on the Indians' money. Now that is very generous treatment on our part, but is it quite fair to the Indian?

Mr. BURKE of South Dakota. Mr. Speaker, I will say to the gentleman, if he will permit me to interrupt him, that the United States will have to finance this proposition and will have to advance all of the money, and it will be years before it will be reimbursed. Therefore the Indian will never lose much, if anything, on account of interest.

Mr. MANN. Oh, as soon as the land is sold that sum will be taken to reimburse the United States Treasury to the extent that it will go, both from the sale of the land, from the sale of the timber, and from the payments that are made on the construction charge, but meanwhile the settler is getting the benefit of the money advanced by the Government and then reimbursed by the Indians and getting it at the expense, first, of the United States and, second, at the expense of the Indian Office. Now, I do not know whether that is the proper thing to do or not. I have been trying to find out what are the facts.

Mr. MILLER. If the United States advances the money, in the first place, the Indian paying no interest thereon, and it is repaid only as the funds come in and the settlers pay for it, how on earth is a penny of the Indian's money out at interest?

Mr. MANN. It is so simple that the gentleman will get it in a moment.

Mr. MILLER. No; I have been thinking of it for a long time.

Mr. MANN. When land is sold, the settler pays for the land. That is one thing. He pays for the construction charge of the irrigation project. That is another thing. The two are kept separate, and he pays for them separately. Now, there is no question about interest with respect to the land. The land is sold for so much an acre, payable at such and such a time, and as the money comes in from the sale of the land it is used to reimburse the United States for its advances for the construction charges, and on so much of the money as is used for this purpose the Indians lose the interest until the construction charge is repaid by the settlers, which is not until a series of years. The gentleman can not take a piece of paper and pencil and figure it any other way.

Mr. MILLER. If the gentleman will permit——

The SPEAKER. The time of the gentleman has expired.

Mr. STEPHENS of Texas. Mr. Speaker, I move the previous question.

Mr. DONOVAN. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. DONOVAN. I want to ask the chairman of the Committee on Indian Affairs if he will yield to me a minute before he moves the previous question?

Mr. STEPHENS Texas. The previous question has already been moved.

Mr. BURKE of South Dakota. Mr. Speaker, I desire to submit a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BURKE of South Dakota. Is the motion of the gentleman from Texas to further insist to the disagreement of the House to the amendment of the Senate?

The SPEAKER. Yes.

Mr. BURKE of South Dakota. Does that include amendment No. 82?

The SPEAKER. It includes all of them.

Mr. BURKE of South Dakota. If I am not mistaken, the message which came over from the Senate announced that the Senate had receded from its amendment No. 82.

Mr. STEPHENS of Texas. Then I will modify my motion.

The SPEAKER. The gentleman from Texas modifies his motion so as to leave out amendment No. 82. Now, does the gentleman from Texas yield to the gentleman from Connecticut [Mr. DONOVAN]?

Mr. STEPHENS of Texas. I withhold my motion for a moment.

Mr. DONOVAN. Mr. Speaker, in the minute which is yielded to me I am going to ask unanimous consent that whenever the gentleman from South Dakota [Mr. BURKE] or the gentleman from Minnesota [Mr. MILLER] sees fit to inject remarks, they may be allowed to do so, notwithstanding the rules to the contrary.

The SPEAKER. That is an improper request.

Mr. MANN. The gentleman is out of order.

The SPEAKER. The Chair has just said that the request is an improper one.

Mr. MANN. Mr. Speaker, I make a point of order that the gentleman from Connecticut has no right under the rules of the House constantly to jump up and make statements of that sort, reflecting upon other Members of the House unfairly and untruthfully, and have them go into the RECORD.

The SPEAKER. The gentleman from Illinois is out of order——

Mr. MANN. No; I make a point of order.

The SPEAKER. What point of order does the gentleman make?

Mr. MANN. The gentleman can not have such matter go into the RECORD. It is the duty of the Speaker to order the reporters to omit it.

The SPEAKER. The rule about that is this: Of course the Chair can not tell when a Member gets up what his intention is, but after the Chair has ruled that a Member is out of order, then if he persists in talking, the Chair can have his subsequent remarks stricken out. He can not do so until he has ruled on it.

Mr. UNDERWOOD. Mr. Speaker, I think the rule is very clear that if one gentleman objects to the remarks of another on the floor it is his business to ask that the remarks be taken down.

The SPEAKER. Of course.

Mr. UNDERWOOD. If they are not taken down there is nothing out of order.

The SPEAKER. Of course, that has to be done.

Mr. STEPHENS of Texas. I have already moved the previous question.

The SPEAKER. The gentleman from Texas moves the previous question.

The previous question was ordered.

The SPEAKER. This vote is to be taken on all the remaining amendments except No. 82.

Mr. STEPHENS of Texas. All except No. 82.

The SPEAKER. That is omitted because it has been receded from by the Senate. The question is on the amendment of the gentleman from Texas that the House further insist on its disagreement to the remaining amendments.

The motion was agreed to.

Mr. STEPHENS of Texas. Now I move that the House agree to the conference asked by the Senate.

The SPEAKER. The gentleman from Texas moves that the House agree to the further conference asked by the Senate.

The motion was agreed to, and the Speaker announced the conferees on the part of the House, Mr. STEPHENS of Texas, Mr. CARTER, and Mr. BURKE of South Dakota.

### LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. BAILEY, for three days, on account of important business.

### ORDER OF BUSINESS.

Mr. JOHNSON of Kentucky. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering District of Columbia legislation.

Mr. FOSTER. Mr. Speaker, I call up the resolution which was laid aside.

The SPEAKER. The gentleman from Kentucky [Mr. JOHNSON] moves to go into Committee of the Whole to consider District of Columbia business, and the gentleman from Illinois [Mr. FOSTER] calls up the report from the Committee on Rules.

Mr. HAY. Mr. Speaker, I want to call the attention of the Chair to the fact that when this conference report came up the House was considering the resolution from the Committee on Rules.

The SPEAKER. That is what the Chair is stating.

### LEAVE TO EXTEND REMARKS.

Mr. BURKE of South Dakota. Mr. Speaker, pending the motion, I ask leave to extend my remarks in the RECORD.

Mr. STEPHENS of Texas. Mr. Speaker, I make the same request.

Mr. FERRIS. Mr. Speaker, I make the same request.

The SPEAKER. The gentleman from South Dakota [Mr. BURKE], the gentleman from Texas [Mr. STEPHENS], and the gentleman from Oklahoma [Mr. FERRIS] ask unanimous consent to extend their remarks in the RECORD. Is there objection?

There was no objection.

### FUR SEALS IN THE PRIBILOF ISLANDS.

Mr. McGUIRE of Oklahoma. Mr. Speaker, I ask unanimous consent to submit the views of the minority of the Committee on Expenditures in the Department of Commerce on the fur-seal investigation in the Pribilof Islands. (H. Rept. 500, pt. 2.)

Mr. JOHNSON of Kentucky. Mr. Speaker, reserving the right to object, does that carry with it any right of discussion?

The SPEAKER. No.

Mr. MANN. Simply to file the views of the minority.

The SPEAKER. If there be no objection, the gentleman will be allowed to file the minority views.

There was no objection.

MANAGERS OF HOME FOR DISABLED VOLUNTEER SOLDIERS.

The SPEAKER. Before the beginning of the consideration of the conference report on the Indian bill the gentleman from Illinois [Mr. FOSTER] got recognition for his report from the Committee on Rules, and then suspended operations to let the conference report on the Indian bill come in. The resolution from the Committee on Rules has precedence over the motion of the gentleman from Kentucky [Mr. JOHNSON]. The Clerk will report the rule.

The Clerk read as follows:

House resolution 581.

*Resolved*, That immediately after the adoption of this resolution the House shall proceed to consider House joint resolution 241; that there shall be not exceeding one hour general debate on the resolution, to be equally divided between those supporting and those opposing the resolution. At the conclusion of such general debate the resolution may be read for amendment, and after consideration of the amendments thereto the previous question shall be considered as ordered on the resolution and amendments to final passage without intervening motion except one motion to recommit.

Mr. FOSTER. I ask for a vote on the resolution.

The SPEAKER. The question is on agreeing to the resolution reported from the Committee on Rules.

The resolution was agreed to.

The SPEAKER. The Clerk will read the resolution.

The Clerk read the resolution, as follows:

House joint resolution (H. J. Res. 241) for the appointment of four members of the Board of Managers of the National Home for Disabled Volunteer Soldiers.

*Resolved, etc.*, That James Steele Catherwood, of Illinois; John C. Nelson, of Indiana; Frederick J. Close, of Kansas; and Thomas S. Bridgham, of Maine, be, and they are hereby, appointed members of the Board of Managers of the National Home for Disabled Volunteer Soldiers of the United States, to succeed Oscar M. Gottshall, of Ohio; William Warner, of Missouri; Franklin Murphy, of New Jersey, whose terms of office expired April 21, 1912, and James Barry, whose resignation as a member of the said board has been accepted.

The Clerk read the following committee amendment:

On page 1, lines 3 and 4, strike out the words "John C. Nelson, of Indiana," and insert "George H. Wood, of Ohio."

The SPEAKER. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. MANN. Mr. Speaker, I think the name "Gottshall," in line 8, is spelled wrong. If you fire a man out of office, you ought at least to spell his name right.

Mr. HAY. How should it be spelled?

Mr. MANN. G-o-t-t-s-c-h-a-l-l.

Mr. HAY. I ask that the correction be made.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Insert a letter "c" after the letter "s" in the word "Gottshall," in line 8.

The amendment was agreed to.

Mr. O'HAIR. Mr. Speaker, I move to amend by striking out in line 1, page 2, the name "James" and insert "Patrick H."

The Clerk read as follows:

Page 2, line 1, strike out the word "James" and insert "Patrick H."

The amendment was agreed to.

Mr. O'HAIR. Mr. Speaker, I offer the following amendment:

The Clerk read as follows:

Page 2, line 3, after the word "accepted" insert the words "*Provided*, That four members of said board shall constitute a quorum for the transaction of business at any regular or special meeting thereof."

Mr. JOHNSON of Washington. Mr. Speaker, is this amendment designed to provide what is now the situation that makes it so urgent to bring in a rule for the passage of the bill?

Mr. O'HAIR. Mr. Speaker, the law as it now stands provides that a quorum shall consist of seven members. The law provides that the number of members shall be reduced by virtue of the expiration of the term of office, death, resignation, and so forth, until there are only five left. There are only two left whose terms have not expired and three whose terms have expired but who are holding over until their successors are appointed. There are only five members of the board to-day.

Mr. JOHNSON of Washington. Can not they provide a quorum by meeting with the ex officio members in Washington?

Mr. O'HAIR. I presume they might, if they could get the ex officio members to meet with them. The time will come when there will be only five members—in about a year from now.

Mr. JOHNSON of Washington. Is not this being hurried through here so that they can enjoy a quorum at a meeting up in Maine instead of in Washington?

Mr. O'HAIR. This is cutting a quorum from seven to four. The number has been reduced from 11 to 5.

Mr. JOHNSON of Washington. I do not object to the amendment.

Mr. O'HAIR. The number of the board was formerly 11 and a quorum was 7.

Mr. MANN. If the gentleman will yield, as I understand, the President of the United States is one of the ex officio members of the board?

Mr. O'HAIR. Yes.

Mr. MANN. It is hardly expected that by legislation you would require the President of the United States to meet with this board for the purpose of making a quorum. That would be absurdity run wild

Mr. JOHNSON of Washington. Why is it so provided?

Mr. MANN. It is not so provided.

Mr. O'HAIR. He is an ex officio member under the law. But the ex officio members can not be required to attend, anyway.

Mr. MURDOCK. I would like to ask the gentleman a question. How many men were originally on the board?

Mr. O'HAIR. Originally there were 9. That was in 1865. In 1867 the number was increased to 10 and in 1880 it was increased to 11. That does not count the 3 ex officio members. Under the present law it is cut to 5 members. A quorum has always been 7 members.

Mr. MURDOCK. There are now five members of the board actually serving?

Mr. O'HAIR. Yes; counting three whose terms expired in 1912 and who are holding over.

Mr. MURDOCK. This resolution proposes to substitute new appointees for those who are holding over?

Mr. O'HAIR. Yes.

Mr. MURDOCK. For how many?

Mr. O'HAIR. Four.

Mr. MURDOCK. That will leave only one hold over.

Mr. O'HAIR. There would be four holding over, but one resigned a year or so ago. There is one to fill his place and the other three are to fill the places of the three hold overs.

Mr. MURDOCK. After we have the new board completed, when do the terms of the members expire?

Mr. O'HAIR. Under the law they are appointed for six years, or until their successors are chosen. That is the organic law that created the board.

Mr. MURDOCK. The expiration of the terms of the new appointees will come at the same time?

Mr. O'HAIR. Yes.

Mr. HAY. Except the one elected to the place of the one that resigned, and his term expires in two years.

Mr. O'HAIR. There are two whose terms expire in 1816, and when their terms expire there will only be one appointed, because that will make the number five.

Mr. BURKE of Wisconsin. Mr. Speaker, I would like to ask the gentleman a question. I would like to inquire if this resolution and amendment contemplate filling a vacancy on the board which occurred three or four weeks ago by the recent death of a member?

Mr. O'HAIR. No, sir.

Mr. BURKE of Wisconsin. Did the death of that member create a vacancy?

Mr. O'HAIR. Under the law as enacted a year ago, there being 11 members, it provided that as vacancies occurred through expiration of terms of office, resignation, death, or from any other cause, until the number was reduced to 5, there should be no more appointments.

Mr. BURKE of Wisconsin. At the time of the death of the last member, three or four weeks ago, how many active members were on the board?

Mr. O'HAIR. Six.

Mr. BURKE of Wisconsin. And his death reduced it to five. There would have been seven, but one man resigned 18 months ago, and his place is to be filled. And there are now six.

Then there are three other members of the board whose terms expired in April, 1912, and under this law their places had to be filled.

Mr. BURKE of Wisconsin. Now, if the gentleman will yield for another question, did not the law or the rider attached to an appropriation in 1912 or 1913 provide that the membership should be reduced by reason of vacancies existing by death or resignation to five members? Now, if the gentleman's resolution passes, how many members will there be on the board?

Mr. O'HAIR. There will be six. There would be seven if that man had not died. He would have held until his time was out.

Mr. BURKE of Wisconsin. Then the purpose of the resolution is to increase the membership?

Mr. O'HAIR. No, sir. These named men take the places of those whom the law provides shall have their vacancies filled.

Mr. BURKE of Wisconsin. But the law says the membership shall be reduced through vacancies to five members.

Mr. O'HAIR. This law was passed about April, May, or June, 1913, and provides:

Hereafter vacancies occurring in the membership of the board of managers of the National Home for Disabled Volunteer Soldiers shall not be filled until the whole number of members of said board is reduced to five and thereafter the number of members constituting said board shall not exceed five.

These vacancies exist by reason of vacancies and expirations of terms of office before this law was passed, and all vacancies that occurred after the passage of that law will not be filled until the number is reduced to five.

Mr. CLINE. Will the gentleman permit a question?

Mr. O'HAIR. Certainly.

Mr. CLINE. I desire to ask a question in reference to the change in the original personality of these appointees. I see an Indiana man was selected in the original list of appointees.

Mr. O'HAIR. In the original resolution; yes.

Mr. HAY. Mr. Speaker, I can answer, perhaps, better than the gentleman from Illinois. I prepared the original resolution and introduced the resolution, and when it was considered by the Committee on Military Affairs that committee struck out the name I had put in and put in another name.

Mr. CLINE. On what authority?

Mr. HAY. On the authority that the committee had the right to make any change in it it saw fit.

Mr. CLINE. I suppose there must have been some good reason for taking the name off.

Mr. HAY. The committee considered the matter and thought it was right to strike out the name of Mr. Nelson and insert the name of Mr. Wood, just like the committee could make any other amendment.

Mr. O'HAIR. I can further state the argument before the committee. There is one in Kansas, one in Illinois, one in Ohio, and one in Maine. Now, there are homes in Illinois, Indiana, and Ohio, and we thought it would be better geographically to distribute these men around.

Mr. CLINE. That is the reason I am making inquiry. We have an old soliders' home at Marion.

Mr. O'HAIR. Also one at Dayton; and your home would be half way between——

Mr. CLINE. What salary do they get?

Mr. O'HAIR. Nothing.

Mr. CLINE. They have their expenses paid. I wanted to know how Indiana came to be left out.

Mr. DONOVAN. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. DONOVAN. I want to ask if the gentleman from Illinois is in possession of the floor?

The SPEAKER. No; he is not in possession of the floor.

Mr. DONOVAN. I want to make an observation.

The SPEAKER. About what?

Mr. DONOVAN. The disorderly proceeding, led by the gentleman from Illinois, the minority leader——

The SPEAKER. That is out of order. The question is on the amendments offered by the gentleman from Illinois [Mr. O'HAIR].

The question was taken, and the amendments were agreed to.

The joint resolution as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. HAY, a motion to reconsider the vote by which the joint resolution was passed was laid on the table.

The SPEAKER. A good many Members do not seem to understand how to get at a Member when he is making invidious remarks. The Chair will state it over again. Whenever any gentleman says anything that any other gentleman thinks is in contravention of the rules, the proper thing to do is to ask that his words be taken down. That is the technical proceeding, and then harness him up and let the House determine what it is going to do about it; but for gentlemen to jaw backward and forward and accuse each other of intemperate remarks, with the thermometer 100 in the shade, does not contribute to the order of the House.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 17824) making appropriations to supply deficiencies in appropriations for the fiscal year 1914 and for prior years, and for other purposes, No. 158, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes by the two Houses thereon, and had appointed Mr. MARTIN of Virginia, Mr. BRYAN, and Mr. GALLINGER as the conferees on the part of the Senate.

REGULATION OF COTTON FUTURES.

Mr. LEVER. Mr. Speaker, I ask the Chair to lay before the House the conference report on the bill S. 110.

The SPEAKER. The gentleman from South Carolina calls up the conference report on the bill S. 110. The Clerk will read the report.

Mr. LEVER. Mr. Speaker, I ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. The gentleman from South Carolina asks unanimous consent that the statement be read in lieu of the report. Is there objection?

Mr. MANN. Mr. Speaker, I object. The report is not long, and I think it ought to be read.

The SPEAKER. The gentleman from Illinois objects, and the Clerk will read the report.

The conference report was read, as follows:

CONFERENCE REPORT (NO. 1012).

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 110) to regulate trading in cotton futures and provide for the standardization of "upland" and "gulf" cottons separately, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House, and agree to the same amended as follows:

In section 3, line 4, of the amendment strike out "1 cent" and insert in lieu thereof "2 cents."

In section 5, seventh line of fifth page, of the amendment, after the comma following "thereof," strike out all the rest of the paragraph and in lieu thereof insert the following: "fixed, assessed, collected and paid, in such manner and in accordance with such rules and regulations as may be prescribed by the Secretary of Agriculture."

In section 5, twenty-second line on the fifth page of the amendment, after "heard," insert the following: "by him or such officer, officers, agent, or agents of the Department of Agriculture as he may designate."

In section 9 of the amendment strike out the sentence beginning "That," in line 10 of page 8, and insert in lieu thereof the following:

"That the Secretary of Agriculture is authorized, from time to time, to establish and promulgate standards of cotton by which its quality or value may be judged or determined, including its grade, length of staple, strength of staple, color, and such other qualities, properties, and conditions as may be standardized in practical form, which, for the purposes of this act, shall be known as the 'Official cotton standards of the United States,' and to adopt, change, or replace the standard for any grade of cotton established under the act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1909 (35 Stat. L., 251), and acts supplementary thereto: *Provided*, That any standard of any cotton established and promulgated under this act by the Secretary of Agriculture shall not be changed or replaced within a period less than one year from and after the date of the promulgation thereof by the Secretary of Agriculture: *Provided further*, That, subsequent to six months after the date section 3 of this act becomes effective, no change or replacement of any standard of any cotton established and promulgated under this act by the Secretary of Agriculture shall become effective until after one year's public notice thereof, which notice shall specify the date when the same is to become effective."

At the end of section 10 of the amendment insert a new paragraph as follows:

"This section shall not be construed to apply to any contract of sale made in compliance with section 5 of this act."

In section 11, line 8, of the amendment strike out "1 cent" and insert in lieu thereof "2 cents."

In section 11, first line on page 11, of the amendment strike out "quality" and insert in lieu thereof "quantity."

In section 20, line 9, of the amendment strike out "and" preceding "to."

In section 20, line 10, of the amendment strike out "permanent."

In section 20, line 12, strike out "and he shall" and insert in lieu thereof "to."

In section 20, line 13, of the amendment strike out "including" and insert in lieu thereof "to pay."

In section 20, line 13, of the amendment strike out "the employment of" and insert in lieu thereof "to employ."

In section 20, line 15, of the amendment, after the period, insert the following:

"The Secretary of Agriculture is hereby directed to publish from time to time the results of investigations made in pursuance of this act."

In section 21, line 5, of the amendment strike out "three" and in lieu thereof insert "six."

In section 21, line 6, of the amendment strike out the period and insert: ": *Provided*, That nothing in this act shall be construed to apply to any contract of sale of any cotton for future delivery mentioned in section 3 of this act which shall have been made prior to the date when section 3 becomes effective"; and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the title and agree to the same.

A. F. LEVER,
GORDON LEE,
G. N. HAUGEN,
*Managers on the part of the House.*

HOKE SMITH,
MORRIS SHEPPARD,
JAMES H. BRADY,
*Managers on the part of the Senate.*

The statement is as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 110) to regulate trading in cotton futures and provide for the standardization of "upland" and "gulf" cottons separately, submit the following written statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report as to the amendment of the House:

The conference amendment to section 3 of the House amendment changes the rate of taxation from 1 cent a pound to 2 cents a pound.

The conference amendments to section 5 of the House amendment state more explicitly the authority of the Secretary of Agriculture to settle disputes under the seventh subdivision of that section.

The conference amendment to section 9 of the House amendment authorizes the Secretary of Agriculture to establish and promulgate standards of cotton from time to time and to make changes in such standards subject to two conditions, namely, first, that every standard established and promulgated must remain in force at least one year and, second, that, after the act has been in effect six months, no change of standards shall be made without at least one year's advance notice thereof.

The conference amendment to section 10 of the House amendment is a declaratory provision that section 10 shall not apply to contracts made in compliance with section 5.

The conference amendments to section 11 of the House amendment change the rate of tax on orders transmitted to foreign countries from 1 cent a pound to 2 cents a pound and correct a typographical error in the use of "quality" for "quantity."

Conference amendments to section 20 of the House amendments clarify the meaning by rearranging the grammatical construction and making clearly mandatory the duty of the Secretary of Agriculture to publish the results of investigations made pursuant to the act and, in order to conform section 20 to the change made in section 9, strike out "permanent" before the phrase "standards of cotton."

The first conference amendment to section 21 of the House amendment extends the time of going into effect of the regulatory provisions of the act from three to six months. This is in order to give the Department of Agriculture the time which it estimates will be necessary to enable it to promulgate standards under section 9 and to adopt the essential rules and regulations provided for in the act. No shorter period would be sufficient to enable the cotton industry to prepare to conduct its future business under the statute without unduly depressing the price of cotton by reason of the far-reaching changes necessitated by this legislation.

The second conference amendment to section 21 of the House amendment is a declaratory provision that the act shall not apply to contracts made prior to the taxing section of the statute becoming effective.

The title is amended so as more accurately to cover the provisions of the act.

A. F. LEVER,
GORDON LEE,
G. N. HAUGEN,
*Managers on the part of the House.*

The SPEAKER. The question is on agreeing to the conference report.

Mr. WINGO. Mr. Speaker——

Mr. MURDOCK. Mr. Speaker——

The SPEAKER. Does the gentleman from Kansas desire to address the Chair?

Mr. MURDOCK. I want to get some time from the gentleman from South Carolina.

Mr. LEVER. How much time does the gentleman desire?

Mr. MURDOCK. I want five minutes.

Mr. LEVER. I yield the gentleman five minutes.

Mr. JOHNSON of Washington. Mr. Speaker, I would like to ask for two or three minutes.

The SPEAKER. The gentleman from South Carolina yields to the gentleman from Kansas five minutes and the gentleman from Washington three minutes.

Mr. LEVER. Mr. Speaker, I would like, if possible, to move the previous question at the end of 15 minutes debate and have a vote. The gentleman from Kentucky [Mr. JOHNSON] is very anxious to get on with his District bill this afternoon, although I will not unduly limit debate.

The SPEAKER. The gentleman from South Carolina gives notice that at the end of 15 minutes he will move the previous question.

Mr. MURDOCK. Mr. Speaker, I have been withholding here on the theory I would expedite matters by letting this arrangement for time be made. However, Mr. Speaker, I will now speed along. There is more dynamite politically wrapped up in this proposition for the Democratic side of this House than in any other proposition before the House in this Congress, and I am making the prediction now that if this measure becomes a law, and it probably will, that it will retire more men in the Democratic primaries in the South in 1916 than any other one thing this Congress or the next Congress will do. The previous question is to be moved after 15 minutes' debate on this measure. We spent over an hour at the time of the passage of the tariff bill on this same proposition, and on a subsequent occasion we spent another hour debating it.

Now, Congress having finally reached the point of giving the measure final form, we are to have 15 minutes of debate.

Mr. GARNER. Will the gentleman yield?

Mr. MURDOCK. Certainly, but I have only five minutes.

Mr. GARNER. Well, before the gentleman leaves that particular point that he started out on I would like him to give some reason why it is going to defeat so many gentlemen from the South.

Mr. MURDOCK. That is just exactly what I am going to explain.

This measure does not prohibit gambling in cotton futures, and the cotton raisers of the South, I will say to the gentleman from Texas, have been attempting for 20 years to suppress gambling in cotton futures. This measure legalizes such gambling, and the people of the South who have been praying for all these years for remedial legislation, who are given a stone when they have been asking for bread, will attend to the Democratic Members of this House who vote for it. I take it that this is an administration measure. I would like to have the attention of the gentleman from South Carolina [Mr. LEVER]. Is this an administration measure? Is it a measure that the administration stands for?

Mr. LEVER. This bill is indorsed by the Secretary of Agriculture very heartily. I do not know what the position of the President of the United States on this proposition is, except this: That a year ago, when the Underwood amendment was offered here to the tariff bill, the gentleman from Alabama [Mr. UNDERWOOD] stated that that amendment had been handed to him by the President of the United States. That amendment was almost on all fours with the present bill.

Mr. MURDOCK. That is what I wanted. I thank the gentleman from South Carolina. It is, then, virtually an administration measure.

Now, the farmers of the South, the cotton raisers, know what they want, and they have been attempting to get what they want for these 20 years; and what they want is a prohibition of gambling in cotton futures that will prohibit, and the best

plan proposed is through a prohibition of the use of the mails to the transactions of the cotton exchanges. There are millions of men and women down South who are engaged in the business of raising cotton. There is a leisurely coterie of rich men over in New York who gamble in cotton. Every expert who has examined this question in the last 20 years says that the gambling in cotton futures on the cotton exchanges does bearishly affect the price of spot cotton as received by the producer. And yet when the evil cries out here for correction, men of the South, who must know the needs of the South, men who represent the people of the South, bring before Congress this sort of a measure, which does what? It fixes standards of cotton which, I understand, practically all the cotton exchanges in the last three years have adopted without any law. It does not suppress gambling. I said that the farmer down South knows what he wants, and he does. The Farmers' Union of this country passed recently a resolution. Part of that resolution reads as follows:

Gambling in cotton and other farm products is a vicious, immoral evil that has been fully investigated and reported upon by congressional committees and executive branches of the Federal Government as well as testified to time and again before our national lawmakers.

Now, I call the attention of the Democratic Members from the South, particularly to this paragraph:

Such gambling in farm products threatens the very foundation of our financial and business and commercial prosperity, and should be abolished, not licensed or legalized by an internal-revenue duty short of one that would actually destroy.

Now, the excise-tax proposition which is incorporated in this bill will not stop gambling in cotton futures. A prohibition of the use of the mail would. The Republicans not so many years ago passed a bill, through the House at least, which would have prohibited this practice. And there was not a single Republican at that time, as I remember it, from the South.

The SPEAKER. The time of the gentleman has expired.

Mr. MURDOCK. I would like one more minute.

Mr. LEVER. I yield to the gentleman one minute more.

Mr. MURDOCK. This Congress is dominated by men from the South. Most of the chairmen of important committees are men from the South, men who have been sent here for years by southern constituencies, constituencies that have been asking for legislation that would reach this sore spot. In this legislation you are refusing them relief. What will be the result? The bill, like a good many other laws enacted here, will pass this year in the campaign successfully as an efficient measure. But in the campaign, or primary campaigns, in the South in 1916, after the law shall have been tried out, after it shall have been in effect for two years and has shown that it has not prohibited gambling, it will bring down upon the heads of the Democrats who vote for it condemnation, and it will bring that condemnation down upon them justly. Why, I ask, in heaven's name, when you Democrats from the South have a chance to correct one of the greatest evils in this country, why do you not do it? What holds you back? What prevents you? Why give to your constituents, when they ask for a real remedy, a sham remedy?

There is no cotton raised in my district. My district is not affected, so far as this bill is concerned, save as it is part of one of the States of the Union. But the people down South who have asked for this remedy and relief and who have a right to expect it are being fooled and shammed. And I say to you that this bill, if I can help it, will not pass the House without a roll call, and every man who votes for it will answer to his constituency, if not this year, then in 1916.

The SPEAKER. The time of the gentleman from Kansas has again expired.

Mr. LEVER. I yield to the gentleman from Washington [Mr. JOHNSON].

Mr. JOHNSON of Washington. Mr. Speaker, I have a letter signed by Charles S. Barrett, editor, apparently, of the National Field, and addressed to a southern Congressman who asked Mr. Barrett's opinion of this bill. Mr. Barrett, in a published reply, said:

This bill is a subterfuge.

He said:

There is not a line in the Lever bill to protect the farmer against fraudulent grading.

A little later this letter says:

There is no such thing as a legitimate future contract that is subject to settlement by a forfeiture of margins.

I will not read the whole of Mr. Barrett's letter now, but, with permission, will place it in the RECORD.

As I understand it, this bill has been amended so as to provide a 2 per cent tax instead of a 1 per cent tax—apparently still a subterfuge, if Mr. Barrett's premises are correct.

It seems that the southern cotton growers have been promised up and down that gambling in cotton shall stop. That seems to have been a platform promise, which must have echoed from every southern stump. Now, the point in the whole matter that particularly interests me, is why so much speed and so much hurry on this, when so many other Democratic platform promises have been permitted to go to seed. Why such hurry, this hot afternoon, on this cotton bill when the immigration restriction bill, which occupied so many strenuous and bitter hours on this floor last winter, and which was passed by the House, still sleeps in a Senate committee. Why? What has happened to it?

And the promised rural-credits bill. Where is it? What has happened? It was promised. Where is it? Nothing is heard of the good-roads proposition, except letters from all over the United States to Congressmen asking when and why and how they are going to get that legislation. Why is this? And why, here on this hot afternoon, shall we talk back and forth and hustle for the passage of a cotton bill which is said to be a subterfuge?

I add the letter from Charles S. Barrett, which is in the form of a signed editorial in the National Field, official organ of the Farmers' Union:

A SOUTHERN CONGRESSMAN ASKED BARRETT'S OPINION ON THE LEVER BILL; HE GOT IT.

DEAR SIR: I appreciate the fact that you ask for my opinion on the cotton-future bill, but we see it so differently that I fear you will not appreciate my views.

Perhaps I can best get the points by simply asking you a few questions.

Do you really believe that 75 per cent of the gambling done on those New York exchanges is done by the citizens of the State?

What do you mean by cotton of an "illegitimate character"?

Is not one grade of cotton just as legitimate as any other grade of cotton at some price?

Why discriminate between the grades that may be used to speculate on?

I know the excuse offered—that it will prevent unspinnable grades from being offered buyers to keep the buyers from demanding the delivery.

If you allow nine grades, is not that enough latitude to keep the merry game going?

You say it will save the farmers $50,000 a year. How? There is not a line in the Lever bill to protect the farmer against fraudulent grading by the buyer. I challenge you to show it. The protection is for the spinner, who is often "frisked" by grafting exporters.

Why does the bill not require the state of the grade when the contract is sold? Why require it only six days before delivery?

How will it affect the "scalper"?

I claim that there is no such thing as a legitimate future contract that is subject to settlement by a forfeiture of margins.

No; there is no getting together on this subterfuge.

You are headed one way and I another.

Stand up boldly and defend the thing as it is; don't straddle.

Why not amend the Senate bill by substituting the Scott bill for the Senate bill after the enacting clause and throw it in conference? If this Lever bill passes, you know it will not pass the Senate this session. The whole situation looks "punk" to me.

We may be wrong on this issue, but I shall not advocate the Government legalizing gambling and going in partnership for part of the swill. You say it is a prohibitory tax—then why not make it higher?

I have no compromise to offer.

Yours, very truly,

CHAS. S. BARRETT.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The gentleman yields back two minutes.

Mr. LEVER. Mr. Speaker, I yield five minutes to the gentleman from Tennessee [Mr. SIMS].

Mr. SIMS. Mr. Speaker, when this bill passed the House, on June 29, under a motion to suspend the rules and pass the bill I opposed its passage and gave my reasons for opposing it in the following words:

"Mr. SIMS. Mr. Speaker, the gentleman from Mississippi [Mr. HARRISON], who has just taken his seat, says that he is opposed to this bill. If the gentleman is sincere in that, and I know he is, then he should vote down this motion to suspend the rules, so we can amend it. Every good thing in this bill can be retained, and the chairman of the Committee on Agriculture knows it. Vote down this motion and let the bill be considered in the usual way, so it can be amended. It will remain on the calendar and can be acted on later in the usual way, and then we can keep everything that is good in it and put some additional things in it that are better than anything that is in it now. Let me read you from the Democratic platform. [Laughter on the Republican side.] Oh, that will do to laugh over there on the Republican side, but these gentlemen on the Democratic side can not laugh at it when they get home. That platform says:

"We favor the enactment by Congress of legislation that will suppress the pernicious practice of gambling in agricultural products by organized exchanges and others.

"Mr. Speaker, the chairman of the committee has just admitted that this bill regulates but does not suppress gambling in farm products. Keep all of the regulation in it, but give us an opportunity to put some suppression in it, whether through the tax-

ing power or otherwise. The Scott bill passed this House, and my distinguished friend from South Carolina supported it. The Beall bill, practically the same, passed this House, and the gentleman supported it; and why not take off the gag in the motion to suspend and give the Members an opportunity to offer amendments that will have a tendency to suppress gambling in cotton instead of galvanizing into respectability and giving legal status to the worst gambling machine that ever afflicted a civilized people? I defy you to take it off. The worst bills that have ever been passed in this House have been passed under suspension of the rules, because 20 minutes on a side does not give time to show what is wrong in them. When you gentlemen get back home and consult your farmer constituents and they find out that you voted with the president of the New York Cotton Exchange and that you have legalized, whitewashed, and federalized cotton gambling, wheat gambling, corn gambling, and oat gambling I fear you will have a long, hard time before you can explain to them your vote. The idea of this being the only chance to consider this bill! Such false claim as that ought to make every honest man blush for shame! Some gentlemen think the best thing we can do is to put off the consideration of the trust bills until the next session of Congress, the short session.

"Can not this little bill be considered at that session? Can not it be considered now at this session before we adjourn? Vote down the motion to suspend the rules and it remains on the calendar and can be considered in the regular order, in the regular way, open to amendment, and no man need say that this is the only opportunity to pass this bill. If it becomes the only opportunity, it is because by your vote you make it the only opportunity. Vote down the motion to suspend the rules and give us an opportunity, and then we will keep everything in that is of benefit to commerce and the farmer and take out those features that ought not to be in the bill. I want any man from the South or West or from the North to get up here on the floor of this House and say, 'I am not in favor of the suppression of the artificial fictitious gambling in farm products.' This bill only legalizes the gambling and will give the Federal courts jurisdiction as against your State laws, and I appeal to you to vote down this motion to suspend the rules and let us pass the bill with proper amendments."

At that time I had not seen nor read an editorial from the National Field, June 18, 1914, which I now read:

[Editorial from the National Field, June 18, 1914, official organ of the Farmers' Union.]

A SOUTHERN CONGRESSMAN ASKED BARRETT'S OPINION ON THE LEVER BILL—HE GOT IT.

DEAR SIR: I appreciate the fact that you ask for my opinion on the cotton-future bill, but we see it so differently that I fear you will not appreciate my views.

Perhaps I can best get the points by simply asking you a few questions.

Do you really believe that 75 per cent of the gambling done on those New York exchanges is done by the citizens of the State?

What do you mean by cotton of an "illegitimate character"?

Is not one grade of cotton just as legitimate as any other grade of cotton at some price?

Why discriminate between the grades that may be used to speculate on?

I know the excuse offered—that it will prevent unspinable grades from being offered buyers to keep the buyers from demanding the delivery.

If you allow nine grades, is not that enough latitude to keep the merry game going?

You say it will save the farmers $50,000,000 a year. How? There is not a line in the Lever bill to protect the farmer against fraudulent grading by the buyer. I challenge you to show it. The protection is for the spinner, who is often "frissed" by grafting exporters.

Why does the bill not require the stating of the grade when the contract is sold? Why require it only six days before delivery?

How will it affect the "scalper"?

I claim that there is no such thing as a legitimate future contract that is subject to settlement by a forfeiture of margins.

No; there is no getting together on this subterfuge.

You are headed one way and I another.

Stand up boldly and defend the thing as it is; don't straddle.

Why not amend the Senate bill by substituting the Scott bill for the Senate bill after the enacting clause and throw it in conference? If this Lever bill passes, you know it will not pass the Senate this session. The whole situation looks "punk" to me.

We may be wrong on this issue, but I shall not advocate the Government legalizing gambling and going into partnership for part of the swill. You say it is a prohibitory tax—then why not make it higher?

I have no compromise to offer.

Yours, very truly, CHAS. S. BARRETT.

In reply to the gentleman from Kansas [Mr. MURDOCK] I want to say that I am not fooled one bit. I do not know what this bill will do as to others in 1916 or what it will do in 1914; but under a bill like this, that only provides a tax upon cotton sold or bought otherwise than by a prescribed form of contract, as a matter of course everybody who wants to buy and sell phantom cotton futures will use the prescribed contract, and then no tax attaches, and even the difference in fluctuation can be settled in margins. That is all they do now, and that is all they will do.

This bill will not stop gambling in cotton if it has ever existed, and will not prevent it in the future, because men that are gambling do not care anything about the form of contract when they neither expect to accept delivery or make it. This is a bill with no joker in it, because the bill itself is a joker [laughter and applause]; and does not accomplish, and, in the very nature of things, will not accomplish, the purpose for which the legislation was sought, which was to suppress gambling in cotton, the product of the farm; not to legalize the form of a contract by which the tax can be avoided. That is all there is in this bill.

As I understand from the conference report the substance of the bill as it passed the House has not been changed at all. The only effect it will have is possibly to make the people who have been suffering by reason of these things think they have relief, until they find out afterwards that it is no relief at all. Of course it regulates the game, but the game is gambling. A tax upon the cotton bought and sold upon the exchanges, to be refunded upon the execution of the contract by the delivery of the cotton, would stop fictitious contracts. To make it unlawful to use the mails or the telegraph or the telephone in the doing of this business would so cripple it that these exchanges would pass out of business to the extent of the gambling they do, which is 99 per cent of their entire business.

Now, nobody wants to abolish any exchange or real exchange business. We have no objection to dealing in cotton on the exchange, but we object to dealing in the name of cotton by which cotton itself is affected, its price and commercial importance.

Now, I do not think that there is a man in the House who is for this bill that has any but the highest motives in so doing, but it is not going to do the thing that it purports to do. The people are not getting what they demanded and what was promised to them, which was suppression, not regulation.

Mr. CLARK of Florida. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Tennessee yield to the gentleman from Florida?

Mr. SIMS. Yes; I yield to the gentleman.

Mr. CLARK of Florida. I would like to ask the gentleman if section 3 of this act does not absolutely license gambling in cotton futures?

Mr. SIMS. I think it makes that which has always been called "gambling" legal, provided you use a particular form of contract.

Mr. CLARK of Florida. It licenses gambling in future contracts?

Mr. SIMS. It licenses what is the equivalent of gambling where you can settle by a specified margin, put up in advance, dependent upon the loss or gain in the contract. It is gambling and can not be anything else.

Mr. HOWARD. Mr. Speaker, will the gentleman yield there for a short question?

Mr. SIMS. Certainly.

Mr. HOWARD. By whom, in the gentleman's opinion, will this tax eventually be paid—by the gambler or the farmer?

Mr. SIMS. A tax must always be a burden upon the product upon which the tax is levied, directly or indirectly.

Mr. Speaker, I promised not to use much time. I regret that this bill falls short of what the good men behind it intended. I can not think it does what it purports to do, and therefore I can not support it. [Applause.]

The SPEAKER. The time of the gentleman from Tennessee has expired.

Mr. LEVER rose.

The SPEAKER. The gentleman from South Carolina is recognized.

Mr. LEVER. Mr. Speaker, I presume there is more misinformation in this House as to the terms of this bill than there has been upon any bill that has ever been brought before the House.

The gentleman from Kansas, my good friend MURDOCK, when this bill was before the House the other day, announced himself as in favor of the Senate proposition. The Senate proposition does not differ in its purpose one iota from the House proposition. The Senate proposition is—

That no person, firm, joint-stock company, society, association, or corporation, their managers or officers, who are members of any exchange, society, corporation, or association in which or through which any contract or contracts for the future delivery of cotton are made shall send through the United States mail any letter, document, pamphlet, or other matter in the promotion or furtherance of the making or enforcing of such contract or contracts unless such exchange, society, corporation, or association shall require all such contracts for future delivery of cotton to comply with the following conditions.

And these conditions are the adoption of Government standards, commercial different system, and many of the other restriction provisions of the House bill. The House proposition goes a good deal further in its restriction, and requires specifically that low-grade cotton, "dog-tail," "rejections," and the like, which for years and years have been held in the warehouses of the New York Cotton Exchange to depress the price of the cotton crop, shall not be deliverable upon these contracts.

Now, if the gentleman believed in the Senate proposition, he ought to believe all the more in the House proposition, because both propositions look to the same end. But the House proposition gets to that end a little bit more rigidly, that is all.

Now, then, my friend from Tennessee [Mr. SIMS], answering the gentleman from Georgia [Mr. HOWARD], says that this tax will be paid by the producers of cotton. I want to say that this tax of 2 cents a pound, amounting to $1,000 a contract, is not going to be paid by anybody, for the simple reason that the tax is absolutely prohibitive, and no one is going to be willing to violate the law and deal in such a contract and pay the penalty of a thousand dollars per contract for doing so, so that the exchanges of this country, in order to escape the taxation involved in the bill, are going to adopt the contract that this bill sets out as a proper contract to be dealt in.

Now, a statement is made also by my friend from Washington [Mr. JOHNSON], who, I imagine, would not know a cotton stalk from a jimson weed, but who has bloomed out as the great friend of the cotton farmer this afternoon. The gentleman reads a letter from the president of the farmers' union, saying that there is nothing in this bill in the interest of the farmer. I know the president of the farmers' union, and I do not hesitate to say this: I believe, in my capacity as a Representative from South Carolina of my immediate district, that I know as much about the needs and the wishes of the farmers of South Carolina, and of my district, as does Mr. Barrett or anybody else. I believe that the southern men on the Committee on Agriculture are as loyal to the farmers of the country and know their needs as well and have as much ability to represent their needs as Mr. Barrett or anybody else. I know the gentleman. I like him personally. He is all right. But I venture to assert that Mr. Barrett has not given to this subject the study and the thought that the Members from the South have given to it, or that the committee has given to it; and the reading of a letter from Mr. Barrett or Mr. Anybody else on a subject about which I am personally informed does not change my opinion.

Mr. JOHNSON of Washington. Mr. Speaker, will the gentleman yield for a question?

Mr. LEVER. I will.

Mr. JOHNSON of Washington. The gentleman is the chairman of the Committee on Agriculture?

Mr. LEVER. Yes.

Mr. JOHNSON of Washington. And that committee handles the forest reserves of the United States. I am very glad of this opportunity, if the gentleman will permit me, to make the point that in all probability, inasmuch as the gentleman said, and with some truth, that I would not know a jimson weed from a cotton stalk, that in all probability a letter signed by Mr. Barrett with regard to cotton matters should have fully as much weight as a letter from Mr. Gifford Pinchot to him on forestry matters in my State, and the other for Western States, which do not have cotton but do have timber. What is sauce for the goose is sauce for the gander.

Mr. LEVER. Yes; that is all right. I will say to the gentleman that I think the time ought to come in this House, and I believe has come, when the judgment of Members of Congress who are responsible to their constituents, and who answer to them every two years, ought not to be warped by letters sent to them. I am willing to receive information from my people. I am willing to get information from the people of this country upon matters in which I am interested; but when I have given years and years of thought to a question, when we have had before the committee the best expert testimony that can be had, when I have submitted this proposition to the experts of the Department of Agriculture, when their judgment agrees with my judgment, and that judgment is concurred in by practically every Democrat from the South, I am not willing to let a letter from somebody stop me in the performance of my duty in this matter or any other.

Mr. HUMPHREYS of Mississippi. Did Mr. Barrett, the president of the farmers' union, come before the Committee of Agriculture when they were framing this bill?

Mr. LEVER. Mr. Barrett was invited especially by myself and another member of the committee, as was the president of every farmers' union in every State of the South. They did not come, and they offered no objection to this bill before the committee.

Mr. HUMPHREYS of Mississippi. And no suggestion?

Mr. LEVER. And no suggestion. Now, one other thing. When this bill was before the House the other day the gentleman from Louisiana [Mr. ASWELL] made the statement that he desired to offer a bill which he had introduced at the request of the farmers' union. The gentleman from Louisiana [Mr. ASWELL] introduced two bills on the subject, as I ascertained after he made that statement. One was practically a copy of the Senate bill dealing with this question under the powers granted to Congress in its control of the postal system and of interstate commerce, and the other was almost identical in terms with the bill which I had the honor to introduce, and which passed this House. He said that he wanted to offer one of those bills, I do not know which, but both of them sought to do exactly the same thing, regulate and not destroy, and that he wished to do so at the request of the farmers' union. The statement was made that they were drawn by the officers of the farmers' union.

Mr. CLARK of Florida. Will the gentleman yield?

Mr. LEVER. I yield.

Mr. CLARK of Florida. I want to ask the chairman of the Committee on Agriculture for what purpose this tax of 2 cents per pound is levied in section 3.

Mr. LEVER. The members of the Committee on Agriculture, I will say very frankly to the gentleman from Florida, believe that certain cotton exchanges in this country dealing in future contracts are using a contract that is absolutely detrimental to the farmers of the South. I believe, and have so said repeatedly, that that contract is causing the southern farmers a loss of not less than $100,000,000 a year. We have levied the tax in section 3 to drive out of existence that kind of contract and—we have nothing to conceal—to make legal a contract which we think represents the value of the bulk of the cotton crop of this country.

Mr. CLARK of Florida. Now, will the gentleman answer another question? Section 3 makes the tax levied upon any contract for future delivery made on or in any exchange, board of trade, or similar institution. Suppose a contract is made somewhere else; then the tax does not apply, does it?

Mr. LEVER. It does not.

Mr. CLARK of Florida. Why that distinction?

Mr. LEVER. Simply because we did not believe your people or my people desire to levy a tax upon a private agreement between John Smith of your district, a cotton buyer, and William Jones, a cotton farmer.

Mr. CLARK of Florida. Does not the gentleman think the evils would be as great in a contract of that character made between individuals as if made on a cotton exchange?

Mr. LEVER. I will say to the gentleman that we did not want to write into this bill any provision taxing spot cotton transactions.

Mr. CLARK of Florida. This is not a spot cotton transaction.

Mr. LEVER. Oh, yes.

Mr. CLARK of Florida. No; it is a transaction for future delivery.

Mr. LEVER. But we did not want to tax a contract for the future delivery of actual cotton if made between private individuals and not through these exchanges or associations.

Mr. CLARK of Florida. Not necessarily. In section 3 you have taxed contracts made for future delivery, which, of course, will not be made if those contracts are made in an exchange or similar institution.

Mr. LEVER. Yes.

Mr. CLARK of Florida. Now, I ask the gentleman what is the difference in a contract of that character, whether actually made in a cotton exchange or board of trade, or made in a private office, if it is not intended to deliver the actual cotton?

Mr. LEVER. I think I see what the gentleman is driving at. The contract referred to in section 3 is a contract where delivery is contemplated, but, as a matter of fact, delivery is not ordinarily made.

Mr. CLARK of Florida. Yes.

Mr. LEVER. The contract that the gentleman refers to, or the other kind of contract, is a contract where delivery is always made.

Mr. CLARK of Florida. Oh, no; I refer to cases where delivery is not made and not intended to be made.

Mr. LEVER. I confess I never saw such a transaction.

Mr. CLARK of Florida. Made between individuals?

Mr. LEVER. I never have.

Mr. CLARK of Florida. It occurs every day.

Mr. LEVER. The gentleman is entirely mistaken.

Mr. CLARK of Florida. I am not mistaken at all.

Mr. LEVER. Perhaps I do not get the gentleman's meaning; but I never saw a contract such as is sought to be regulated by this bill between individuals in my life, unless it was the contract specified in section 3, where cotton was not delivered.

Mr. CLARK of Florida. Does not the gentleman know that contracts are made every day in the cotton section in the cotton season as between individuals, when the thing does not approach a board of trade or exchange at all, but is made simply between individuals?

Mr. LEVER. Is the gentleman talking about a bucket shop?

Mr. CLARK of Florida. You may call it a bucket shop or call it what you please; but these contracts are made as between individuals for future delivery, when it is never intended that there shall be any delivery at all; but they are not made in an exchange, not made in a board of trade, not made in any regularly constituted institution of this character——

Mr. LEVER. I think I catch what the gentleman is driving at. Such a contract made in a bucket shop, if an interstate transaction, would be reached by this bill, and even if an intrastate transaction, it would be reached. As a matter of fact, the bucket shops in this country in nearly every State have been driven out of business by State legislation.

Mr. CLARK of Florida. Not all of them; some are still in existence.

Mr. LEVER. If the court will hold that a bucket shop is a similar institution to an exchange or board of trade, then the bill would reach it.

Mr. CLARK of Florida. Yes; if the courts would hold that.

Mr. LEVER. And I believe the courts would hold that.

Mr. CLARK of Florida. The gentleman is entitled to that opinion; but I do not agree with him. Now, I want to ask this question, and it is the gist of the whole situation: How does the gentleman from South Carolina, or his committee, justify the levying of a tax upon the carrying on of a business which all of us denounce as absolutely illegal?

Mr. LEVER. I say to the gentleman frankly that there are transactions on future markets which I do not look upon as illegitimate. I believe that speculation, when it is fair speculation, is absolutely legitimate. I believe that this Congress could do no greater injury to the cotton farmers of the South than to say that people shall not express their optimism and hope in that great crop. I believe you would absolutely paralyze the price of cotton if you said that millions in the future could not believe in the higher price of cotton.

Mr. WINGO. Will the gentleman yield?

Mr. LEVER. Yes.

Mr. WINGO. The principal changes made in conference, as I understand, are these: You have changed the tax from 1 cent to 2 cents. A provision is put in which practically abolishes the present standards of nine grades which run from middling fair to good ordinary. You strike out that part of the bill which requires the contract to name as a basis some one of the nine Government grades fixed in the original House bill, and in lieu thereof you substitute a provision which authorizes the Secretary of Agriculture to establish new standard grades. Another change is that you remove the inhibitions against ring settlements, set out in section 10, on all the contracts drawn in compliance with the provisions of section 5. Those are the principal changes in conference.

Mr. LEVER. Yes; and we have added a provision that nothing in the bill shall interfere with existing contracts.

Mr. WINGO. I would like to ask this further question: We have had Government standard grades for practically four years past, the nine grades being from middling fair to good ordinary. Now, these standards have been adopted by all the cotton exchanges in this country.

Mr. LEVER. In answer to the gentleman's question I say that it is very doubtful, in my opinion and in that of the Solicitor of Agriculture, who is an able lawyer, whether or not we have ever had any official standard. The official standards, so called, were established or promulgated under authority of an item in the Agricultural appropriation bill. I began to look into that proposition, and I concluded that it would be unwise to adopt legislation predicated upon something that had any doubt whatever about its legality. I submitted the question to the solicitor of the department, and he concluded there was doubt about it, and hence we introduced into this bill a provision for the reestablishment or repromulgation of official standards.

Mr. WINGO. Is it not true that all the cotton exchanges of the country, including both New Orleans and New York, have already adopted what is now called the Government standard of nine grades?

Mr. LEVER. The New Orleans Cotton Exchange, immediately after the standards were established, did adopt them. The New York Cotton Exchange adopted them during this spring, and the spot cotton exchanges of the country adopted these standards only in the early part of May.

Mr. WINGO. I am talking about the exchanges where future contracts are dealt in. New Orleans adopted it immediately after their promulgation by the Government, and the New York Cotton Exchange some time this spring.

Mr. LEVER. To go into effect this next year.

Mr. WINGO. I thought it went into effect in September. The Liverpool Cotton Exchange has adopted the United States Government's standards, to go into effect the 1st day of September, except in the description of the standards they use the word "fully" instead of "strict" in three different grades.

Mr. LEVER. The standard of the Liverpool exchange is practically the same as the United States, except the basis middling is a little lower grade. A cotton man told me the other day that he would rather sell cotton on the basis of the Liverpool exchange than the New York Cotton Exchange, because the basis was a little lower.

Mr. WINGO. That is a little difference that comes by comparison of standards, and that will come anywhere. The gentleman stated a moment ago that there would be no tax collected, because the object of the tax is prohibitive. In other words, it would prohibit them from using contracts which you say are now complained of, and which will not be used any more, and therefore there will be no tax collected.

Mr. LEVER. I do not think there will be; of course there may be a little.

Mr. WINGO. If the members of the New York Cotton Exchange made the sale of 100,000,000 bales a year for future delivery, just so they comply with section 5, no tax will be collected.

Mr. LEVER. None whatever.

Mr. WINGO. Now, let us consider this amendment to section 10 proposed by the conference report:

> This section shall not be construed to apply to any contract or sale made in compliance with section 5.

Now, they can conduct all of their transactions under a form of contract provided by section 5. If they do that—and I am frank to say they can—then will the restrictions set out in section 10 apply to these contracts?

Mr. LEVER. Not at all.

Mr. WINGO. That is the object of the amendment proposed in conference.

Mr. LEVER. I will say to the gentleman this: That section 10 has reference only to future contracts which are not future contracts as we ordinarily know them. They are f. o. b. contracts, contracts to mature in the future. A cotton-mill man desires 1,000 bales from a farmer for delivery next March. He makes a contract with you. You buy this 1,000 bales of strict middling deliverable at a certain time in the future. We were afraid that unless we specifically set out in the bill a section which made that kind of a contract possible without any tax applying whatever to it that some courts somewhere might hold that the tax provided in section 3 would apply to that kind of a contract, and that is what we did not want to happen. Now, as to the amendment proposed, after the bill had gone through the House a good many letters came pouring in to members of the committee, to the gentleman from Georgia, the gentleman from Mississippi, the conferees of the Senate, and myself, saying that that kind of contract was not specifically exempted from taxation and asked us as a matter of precaution to put in the language we have. I personally do not think it makes a particle of difference, because I do not think that kind of contract is taxable.

Mr. WINGO. The only practical difference between section 5 and section 10 is contained in the fourth subdivision of section 10. The first proposition of section 5, page 7, practically is the same language as the first provision of section 10, page 13, is it not? The first provision in section 5 is this:

> First. Conform to the requirements of section 4 of and the rules and regulations made pursuant to this act.

Now, the second provision under section 5 is this:

> Second. Specify the basis grade for the cotton involved in the contract, which shall be one of the grades for which standards are established by the Secretary of Agriculture, except grades prohibited from being delivered on a contract made under this section by the fifth subdivision of this section, the price per pound at which the cotton of such basis grade is contracted to be bought or sold, the date when the purchase or sale was made, and the month or months in which the contract is to be fulfilled or settled: *Provided*, That middling shall be deemed the basis grade incorporated into the contract if no other basis grade be specified either in the contract or in the memorandum evidencing the same.

Now, the same section, the same subdivision of section 10, is practically the same——

Mr. LEVER. No. It is:

Second. Specify the grade, type, sample, or description of the cotton involved in the contract, the price per pound at which such cotton is contracted to be bought or sold, the date of the purchase or sale, and the time when shipment or delivery of such cotton is to be made.

Mr. WINGO. What is the distinction?

Mr. LEVER. The distinction is this: The gentleman will notice that section 5——

Mr. WINGO. I read section 5 first.

Mr. LEVER. Says that the contract shall specify the basis grade.

Mr. WINGO. Yes.

Mr. LEVER. And for the purpose of this act the basis grade shall be considered strict middling. Now, a basis grade is a representative—a grade from which grade grades are measured above and below.

That is the basis grade. The New York Cotton Exchange deals in a basis contract. The New Orleans Cotton Exchange deals in a basis contract.

Mr. WINGO. I note a provision in section 5 with reference to basis grade that if there is no basis grade specified in the contract then middling shall be considered the basis grade.

Mr. LEVER. Exactly.

Mr. WINGO. So there is no difference. Now, section 10 says that it shall specify the grade, but it does contain a provision as to what shall be the basis if it is not specified, but the first subdivision of section 10 covers that anyway by referring to the regulations and provisions of the act.

Mr. LEVER. The rules and regulations of the act.

Mr. WINGO. Well, assuming there is a difference——

Mr. LEVER. Let me get into the gentleman's head the real difference. The contract referred to in section 5, which the gentleman has read, is a basis contract; it is a future contract, as we understand the word "future." It is a contract which has written into it the idea there is going to be a delivery upon it, but it is a contract which everybody knows is not going to have cotton delivered in fulfillment.

Mr. WINGO. In other words, it is what is known as a "gambling contract."

Mr. LEVER. It is a New York Cotton Exchange contract; it is a New Orleans Cotton Exchange contract, a Bremen contract, a Havre contract, and a Liverpool Cotton Exchange contract. Now, we were afraid that the contracts between the millman and the farmer for future delivery might fall within the tax provisions of this bill and be taxed, hence we put into this bill section 10.

Now, the second subdivision of section 10 says that the contract shall specify the grade. It does not say the basis grade, but says it shall specify the grade, type, sample, or description of the cotton involved in the contract, the price per pound at which such cotton is to be bought or sold, the date of the purchase or sale, the time when shipment and delivery of such cotton is to be made, and so forth. Subdivision 3 says that when such a contract is made and delivery is made upon it that the cotton shall be within the grade or price or according to the sample or description specified in the contract. For instance, under the terms of section 5, subsection 7 of the bill, you would not be able to deliver on a contract on the New York or New Orleans Cotton Exchange cotton less in value than "good ordinary" in settlement of that contract for delivery, if delivery was called for. You could not, under that section, deliver what is known as "repacked" cotton or "water-packed" cotton, or what we know as "offings," "rejections," and "dog-tails" of the cotton crop. But it does not follow that we should prohibit the right of contract as to cotton that is denied delivery under the terms of section 5. For instance, we might want to make such cotton into padding for horse collars, or automobile tires, or something of that kind, and we did not want to run the risk of taxing it. So we say we can deal in that cotton free of taxation, if, when the delivery is made, it is of the contract grade.

Mr. WINGO. The contracts referred to in section 5 are——

Mr. LEVER. Are what you call "gambling" contracts.

Mr. WINGO. "Gambling contracts." In other words, that is intended to reform the gambling contracts on the New York Cotton Exchange?

Mr. LEVER. Yes, sir.

Mr. WINGO. Section 10 is intended to apply to those contracts when a planter comes in and wants to get advances and makes a contract for delivery in the fall. That is why you have two exempted classes? The New York Cotton Exchange is exempt if they have a contract like section 5 provides. Now, that being true, why is it that you put the provision on "ring" settlement in the planter's contract and leave it out of the "gambler's" contract?

Mr. LEVER. We put it in this contract because we did not want to leave a loophole in this bill which might result in the building up of quasi exchanges in this country where the present pernicious methods of the future markets could be pursued under color of law. However, every student of the question knows that if you force delivery upon one of the contracts of the New York Cotton Exchange by law, that that is the end of that exchange.

Mr. WINGO. Now, right there. In the matter of forcing delivery, a contract for the delivery of cotton is not such a contract of which a court of equity will require a specific performance? Now, is not that true?

Mr. LEVER. I am not sure that the gentleman is correct in his legal proposition. I am not a lawyer.

Mr. WINGO. Let us use an illustration. It will not take a lawyer to get at it, but I think you know the law. Suppose you make a contract under section 5 that by this bill you make legitimate and does not have to be taxed. Suppose I sell you on the New York Cotton Exchange 10,000 bales of December cotton at 10 cents. When December comes, the day of fulfillment, or settlement, or whatever you call it, December cotton is quoted at 12 cents. Now, you come to me and say, "I want my cotton." I say, "I have not any cotton, and I will not give it to you." I will say I will give you the 2 cents difference, and you will say, "I do not want that; I want my cotton." Do you not know that if you consulted a lawyer he would tell you that the measure of damages would be the difference between the contract price of the cotton and the price at which you could buy that cotton in the open market?

Mr. LEVER. On the contract, if such a contract is made between you and me, and I came to you and said, "I want my cotton, and I will not take anything else than my cotton; I will not take a difference settlement," I have a right under the present contract even to get my cotton unless the cotton can not be had on account of "providential hindrance"—a ship doing down, or something like that.

Mr. SIMS. You do not mean to say you can "replevy" on the exchange?

Mr. LEVER. Not on the exchange. The gentleman from Tennessee knows about this bill, because he has studied it sufficiently to realize that the contracts of the New York Exchange require now that if delivery is demanded delivery shall be made. The gentleman knows that. Will he not admit it?

Mr. SIMS. It is only a money damage, then. It is not a specific damage.

Mr. LEVER. You can not get something out of nothing, of course. But if cotton can be made, it can be had.

Mr. WINGO. My illustration was that I can go and sell to you something I do not have. I make my contract read like section 5 expresses it, and when December comes I have not the cotton, how is the exchange or any court on earth going to force me to deliver the cotton? Is it not true that the only relief would be an action for damages for breach of contract, and the measure of damages would be the difference between the contract price and the price at which you can get the cotton in the open market?

Mr. LEVER. Well, I will admit that you can not get blood out of a turnip, but there is not a member of the New York Cotton Exchange to-day, and I doubt if there is a member of any exchange in the world to-day, who would make a contract which he did not believe he could fulfill when delivery came, if delivery was called for, and if he did not he would be kicked off of the exchange so quickly it would make his head swim.

Mr. WINGO. Then, how do you explain the fact that they sell fifteen times more cotton on the New York Exchange than there is cotton actually made?

Mr. LEVER. On the same principle that I have seen a one-dollar bill discharge 40 debts.

Mr. WINGO. The proposition is to prohibit fake tenders? How are you going to force actual delivery on 100,000,000 bales?

Mr. LEVER. The gentleman does not understand my viewpoint at all.

Mr. WINGO. What I am trying to get at is your viewpoint.

Mr. LEVER. I will say to the gentleman frankly that we are going into the academic proposition, and I do not care how much cotton is bought and sold on the New York Cotton Exchange, when a cotton-mill man or a farmer, or a merchant, who engages in the use of a hedge upon that market, calls for his cotton, he is assured that he is not going to have delivered to him unspinnable, unmerchantable, unusable cotton.

Mr. WINGO. Now, one other question before I get through. Is not paragraph 4 of section 10 the only provision of your bill

prohibiting "set-offs" or "ring settlements"? That is the only place in your bill where you place any prohibition on "set-offs" or "ring settlements"?

Mr. LEVER. Yes; and we do that to save the country from having a dozen little gambling dens springing up everywhere.

Mr. WINGO. That is the only provision in the bill where you have any prohibition against "set-offs" and "ring settlements," and by this amendment to section 10, which the conferees propose, you seek to amend it by stating that the provisions of section 10 shall not apply to section 5 contracts; and then you have not a single inhibition in your bill against "ring settlements" and gambling contracts, because you expressly say that these "ring settlements" and gambling contracts shall not apply under section 5, which you say are gambling contracts.

Mr. LEVER. I thought the gentleman from Arkansas knew this, that this bill was not predicated upon the idea of preventing the dealing in future contracts if those contracts were contracts which represented the bulk of the value of the cotton crop of the South and whose value was not fixed by the low grades of the cotton crop, but by the bulk of the cotton crop. The gentleman knows that I am too frank to conceal it——

Mr. WINGO. Yes; I know that——

Mr. LEVER. That there is no intention whatever in this bill to destroy the New York Cotton Exchange, and there is no intention whatever in this bill to destroy the New Orleans Cotton Exchange. The intention of this bill is to regulate the transactions in such a way as to force them to use a contract which represents the bulk of the value of the cotton crop of Tennessee, South Carolina, and the other cotton-producing States.

Mr. CLARK of Florida. Mr. Speaker, will the gentleman yield for just one question?

The SPEAKER. Does the gentleman yield?

Mr. LEVER. Mr. Speaker, how much time have I?

The SPEAKER. Ten minutes.

Mr. LEVER. Yes; I yield to the gentleman.

Mr. CLARK of Florida. I want to ask the gentleman if he and his committee have any well-considered opinion as to the effect of this bill, if it should become a law, as to the closing of cotton exchanges? What effect will it have upon the cotton exchanges of the country in the gentleman's opinion?

Mr. LEVER. You mean New Orleans and New York particularly—that type of exchanges?

Mr. CLARK of Florida. Yes.

Mr. LEVER. It will not close either of them.

Mr. SIMS. Would it not increase their business?

Mr. LEVER. It would not surprise me a particle if it did increase their business. I would be glad if it would, and for this reason, that if there is going on, with respect to any commodity, a lively bidding, a lively buying, and a lively selling, you would never see the price of that commodity go down. Under all economic laws it would go up.

Mr. CLARK of Florida. I want to ask the gentleman this further question: Is it not a fact that in the hearings the president of the New York Cotton Exchange gave it as his opinion that the enactment of this bill into law would increase the business of the exchanges?

Mr. LEVER. I really could not say. It would not surprise me if he had said that. I will say to the gentleman this: I have had not one, but dozens of the biggest firms in New York, cotton people, say that the destruction of the New York Cotton Exchange and of the Liverpool Exchange, and exchanges of that type would increase their profits hundreds of millions of dollars a year, because it would give them an absolute monopoly of the cotton business.

Mr. CLARK of Florida. Can the gentleman give to the House his opinion as to whether that is true and some substantial reason upon which to base that opinion?

Mr. LEVER. I made the statement when the Underwood amendment was pending to the tariff bill, and I make it again, that if you destroy the future market of this country for cotton, you would build up the greatest monopoly in cotton that the world ever saw, and that that monopoly would consist of the big spot-cotton dealers of the country combining with the great cotton-mill people of the country.

Mr. CLARK of Florida. Then the gentleman's position is that in order to maintain respectable prices for agricultural products in this country we must maintain by law institutions designed to promote gambling in those products?

Mr. LEVER. No. The gentleman designates legitimate speculation as gambling. I do not. That is just where we differ.

Mr. SIMS. I want to ask the gentleman just one question. I know the gentleman is well informed.

Mr. LEVER. I will yield to the gentleman from Tennessee.

Mr. SIMS. Is it not a fact that no person can buy or sell cotton on these exchanges unless he is a member of the exchange?

Mr. LEVER. That is true.

Mr. SIMS. And therefore the exchanges, so far as this law is concerned, have the absolute monopoly of all dealing under this law?

Mr. LEVER. The gentleman knows that the exchanges make their business out of their commissions largely, and they appeal to the public. The gentleman knows more about this business than I do.

Mr. SIMS. And nobody can either buy or sell on the exchanges unless they are members?

Mr. LEVER. I said I believed that was true.

Mr. CARAWAY. Mr. Speaker, will the gentleman yield for a question?

Mr. LEVER. Yes.

Mr. CARAWAY. The question I have in mind is just this: Under this law the spinner can hedge on his contract safely, can he not?

Mr. LEVER. Yes; and he can not do so under the existing situation to-day.

Mr. CARAWAY. The bill meets the approval of the spinners?

Mr. LEVER. Yes.

Mr. CARAWAY. Will not this be true with the spinner under this bill—because he can hedge his contracts perfectly—that he will be able to wait and take his chance on the cotton crop being large and the price being low, and need not go into the market when the farmer is offering his cotton on the market, and need not be compelled to buy them? He can have a contract that will actually protect him, and he can wait until December or January or February, because he can buy on the future market in May, and have a contract that he can enforce, and he can wait until the farmer has not a bale in his hands before he is under the necessity of buying?

Mr. LEVER. The gentleman from Arkansas will understand that the cotton mill man is buying cotton and selling cloth every day in the year. Every time he buys a bale of cotton he uses the exchange as a hedge, and every time he sells a hundred bales of cloth he still uses the exchange as a hedge. He is hedging every day if he can find an opportunity. The difficulty has been that the New York Cotton Exchange contract with the spinner always underbids the value of cotton, because of the fear of that contract.

Mr. CARAWAY. I know the contract is bad, but do you not think there is some danger, because he has a perfect hedge now, that if the price of cotton in the hands of the farmer in September or October is high, he can safely wait?

Mr. LEVER. Not at all.

Mr. CARAWAY. You do not think so?

Mr. LEVER. I think, on the contrary, you will find that the price of cotton will be five or six dollars a bale higher when this bill gets into operation.

Mr. DAVIS. I have talked with quite a number of Members recently, and the question has arisen, after the passage of your bill, can anyone make a contract for the future delivery of cotton, or purchase it, without any intention of there being an actual delivery of the cotton?

Mr. LEVER. He can if his contract conforms to section 5 of the bill. The contract itself provides, and all the contracts of the exchanges provide, for the delivery of cotton. But you know and I know, and all of those who have studied the question know, that while the delivery is contemplated it is rarely made.

Mr. DAVIS. Then will there be any change in that future delivery by virtue of this bill if the contract is made in accordance with it?

Mr. LEVER. No; there will not.

Mr. DAVIS. And you can buy and sell without any purpose to deliver?

Mr. LEVER. Why, yes.

Mr. SISSON. Under this bill, if cotton is bought or sold on the exchange under one of these contracts, under the rules of the exchange you can give notice 10 days before the date of the delivery——

Mr. LEVER. Five.

Mr. SISSON. Five days before the date of delivery that you will demand the spot cotton?

Mr. LEVER. Yes.

Mr. SISSON. What assurance have you under this bill that you will get the cotton that you bought, and of the grade?

Mr. LEVER. None whatever, I will say to the gentleman frankly, because if we wrote in the law that delivery of cotton must be made, it would close the exchanges.

Mr. SISSON. That is not my question at all.

Mr. LEVER. I did not catch the gentleman's question.
Mr. SISSON. My question was this——
Mr. HEFLIN. The gentleman has agreed to yield some time to me, and I do not want it all taken up by questions.
Mr. SISSON. The gentleman wants some votes for his bill, does he not?
The SPEAKER. The gentleman has four minutes left of his hour. To whom does the gentleman yield?
Mr. LEVER. I yield to the gentleman from Mississippi.
Mr. SISSON. Suppose he does demand a delivery of the cotton?
Mr. LEVER. He will get the cotton and the grade or else he will be kicked off the exchange under their rules.
Mr. SISSON. Will he get exactly that grade?
Mr. LEVER. Yes; if he contracts for a specific grade.
Mr. SISSON. Suppose he buys it basis middling?
Mr. LEVER. Then he will get it fixed within the limits of this bill.
Mr. SISSON. What is that limit?
Mr. LEVER. From middling fair to good ordinary.
Mr. HUMPHREYS of Mississippi. All spinnable?
Mr. LEVER. All spinnable.
Mr. SISSON. How many points is that above or below basis middling?
Mr. LEVER. That varies. Good ordinary may be 150 points below basis middling. It has got to be good spinnable cotton. Now, I yield to the gentleman from Alabama [Mr. HEFLIN] three minutes.
Mr. HEFLIN. Mr. Speaker, I shall vote for this measure. It does not contain all the provisions that I would like to see in a bill of this kind, but I want to say to my good friend from Kansas [Mr. MURDOCK] that I have studied this question a great deal, and this bill has five propositions in it that will be of great value to the cotton producers; and when it comes to the grain bill, I shall try to aid the western gentlemen in getting what they want on the grain proposition. I believe I do know a little more about this cotton proposition than does my good friend from Kansas [Mr. MURDOCK]. There are five good provisions in this bill.
First. It requires the cotton exchanges to use the standard grades.
Second. It requires a record to be kept of all transactions on the exchange.
Third. It requires the Secretary of Agriculture to settle disputes as to grades named in the contract, and takes this power away from the committee on the exchange.
Fourth. It requires the delivery of spinable cotton on contracts, and prevents the tendering of dog-tail cotton to beat down the price of good cotton.
Fifth. It prevents the arbitrary fixed difference now employed on the New York Cotton Exchange and requires the commercial difference, and authorizes the Secretary of Agriculture to go to five spot markets in the South to obtain that commercial difference. These are all good provisions, and while there are some features of this bill I would change, I am so anxious to get some of these provisions enacted into law that I am going to vote for the measure; and if it does not work as I think it should, I will help to amend it.
I want to say to gentlemen on this side of the House that if you cast your votes against this bill you are voting to continue the present order of things on the exchanges. We have now on the cotton exchanges the rottenest rules in the world. [Applause.] The farmers are being robbed under these conditions every year in the South, and I beg you, gentlemen, not to oppose legislation on this question at this time. Do not be placed in the attitude of favoring the present conduct of the New York Exchange. You had better cast your vote for a measure that has some good in it rather than to vote to continue the present condition of things. [Applause.] Gentlemen from the West will want legislation on grain pretty soon, and I hope to help them get it, and I trust that they will not stand in the way of cotton-exchange legislation when we come from the cotton belt and ask for that regulation. [Applause.] It is not long until the December term of Congress. Let us take this long step in the right direction, and when we watch the bill in operation we can amend it, if it needs amending. [Applause.]
Mr. LEVER. Mr. Speaker, I move the previous question.
Mr. WINGO. I trust the gentleman will withhold that. Every time this question comes up, those in favor of absolute suppression have not been given any time. Mr. Speaker, I ask unanimous consent that I may proceed for five minutes.
Mr. MANN. Anybody is entitled to the floor. How much time does the gentleman from South Carolina want? Mr. Speaker, I ask that the time of the gentleman from South Carolina [Mr. LEVER] be extended 10 minutes.
The SPEAKER. The gentleman from Illinois asks unanimous consent that the time of the gentleman from South Carolina be extended 10 minutes. Is there objection?
Mr. SHERLEY. And I ask that at the end of that time the previous question be considered as ordered.
Mr. MANN. Mr. Speaker, I can not agree to that. The gentleman can move the previous question.
Mr. SHERLEY. This is an unusual request to extend the time, and I am trying to save the time of ordering the previous question.
Mr. MANN. Anybody is entitled to the floor, and I was doing it to save time.
Mr. SHERLEY. That was my object.
Mr. LEVER. I will say to the gentleman from Kentucky that I will move the previous question at the end of 10 minutes.
The SPEAKER. Is there objection to the request of the gentleman from Illinois, that the time of the gentleman from South Carolina be extended 10 minutes? [After a pause.] The Chair hears none.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries.

ENROLLED BILL SIGNED.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:
H. R. 4988. An act to provide for the disposal of certain lands in the Fort Berthold Indian Reservation, N. Dak.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:
H. R. 17005. An act authorizing the fiscal court of Pike County, Ky., to construct a bridge across Tug Fork of the Big Sandy River, at or near Williamson, W. Va.;
H. R. 16579. An act to authorize the construction of a bridge across St. John River at Fort Kent, Me.; and
H. R. 16294. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

SOCIAL INSURANCE CONGRESS (H. DOC. NO. 1132).

The SPEAKER laid before the House the following message from the President of the United States, which was read, ordered printed, and referred to the Committee on Foreign Affairs.
The message is as follows:

*To the Senate and House of Representatives:*

In view of a provision of law contained in the deficiency act approved March 4, 1913, that "Hereafter the Executive shall not extend or accept any invitation to participate in any international congress, conference, or like event without first having specific authority of law," I transmit herewith for the consideration of the Congress and for its determination whether it will authorize the acceptance of the invitation a report from the Secretary of State, with accompanying papers, being an invitation from the Government of the French Republic to that of the United States to send delegates to the International Conference on Social Insurance, to be held at Paris in September, 1914, and a letter from the Department of Labor showing the favor with which that department views the proposed gathering.
It will be observed that the acceptance of this invitation involves no special appropriation of money by the Government.

WOODROW WILSON.

THE WHITE HOUSE, *July 27, 1914.*

DISTRICT OF COLUMBIA BUSINESS.

Mr. JOHNSON of Kentucky. Mr. Speaker, I ask unanimous consent that next Saturday may be set aside for District of Columbia business.
The SPEAKER. The gentleman from Kentucky asks unanimous consent that Saturday next be set aside for the transaction of District of Columbia business. Is there objection?
Mr. GARRETT of Tennessee. Reserving the right to object, I would like to ask the gentleman from Kentucky if he has any very pressing matters on the calendar?
Mr. JOHNSON of Kentucky. We have a number of bills on the calendar that ought to be disposed of some way or other.
Mr. FINLEY. Reserving the right to object, Mr. Speaker, unless there is some matter of great importance and very pressing, I will be compelled to object.

Mr. BURNETT. I am not on the committee, but there is a matter relating to the Plaza awards in which are concerned many poor people whose money ought to be paid them. It is now the pending question carried over from the last District day.

The SPEAKER. Is there objection?

Mr. FINLEY. I hope the gentleman from Kentucky will withdraw his request, and perhaps we can come to some understanding, but for the present I shall be compelled to object.

LUCIEN P. ROGERS.

Mr. HULINGS. Mr. Speaker, I ask that the Speaker lay before the House the bill H. R. 8688.

The SPEAKER laid before the House the bill H. R. 8688, an act for the relief of Lucien P. Rogers, with a Senate amendment.

The Senate amendment was read.

Mr. HULINGS. Mr. Speaker, I desire to say that that was simply an error in the data, which has been corrected in the Senate. I move that the House concur in the Senate amendment.

The motion was agreed to.

EXTENSION OF REMARKS.

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the pending political issues.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? [After a pause.] The Chair hears none.

REGULATION OF COTTON FUTURES.

Mr. CLARK of Florida. Mr. Speaker, I make the point that there is no quorum present.

Mr. UNDERWOOD. Mr. Speaker, has the Speaker announced whether there was a quorum?

The SPEAKER. The Chair was about to count.

Mr. LEVER. I hope the gentleman from Florida will withdraw his point of no quorum and allow us to finish the debate.

Mr. CLARK of Florida. If the gentleman from South Carolina will withdraw his objection to setting aside Saturday as District day——

Mr. JOHNSON of Kentucky. Mr. Speaker, I withdraw the request to set aside Saturday as District day.

The SPEAKER. The gentleman from Kentucky withdraws his request to set aside next Saturday as District day, and the gentleman from Florida withdraws his point of no quorum.

Mr. CLARK of Florida. Oh, no, Mr. Speaker; I said if the gentleman from South Carolina would withdraw his objection to the request to set aside Saturday as District day.

Mr. MURDOCK. Mr. Speaker, what is the regular order?

The SPEAKER. The regular order is to proceed with this debate.

Mr. MURDOCK. Was objection made to that?

The SPEAKER. No; the way the objection came up was that the gentleman from Kentucky asked that Saturday next be set aside for District business, and the gentleman from South Carolina objected. Then gentlemen were asking to extend remarks when the gentleman from Florida raised the point of no quorum. The Chair will count. [After counting.] One hundred and eleven Members present; not a quorum.

Mr. UNDERWOOD. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

| | | | |
|---|---|---|---|
| Adair | Carter | Gardner | Hoxworth |
| Aiken | Cary | George | Hughes, Ga. |
| Ainey | Chandler, N. Y. | Gerry | Hughes, W. Va. |
| Anthony | Connolly, Iowa | Gill | Hulings |
| Ashbrook | Copley | Gillett | Humphrey, Wash. |
| Aswell | Covington | Glass | Jacoway |
| Austin | Cramton | Godwin, N. C. | Johnson, S. C. |
| Avis | Crisp | Goeke | Jones |
| Bailey | Crosser | Goldfogle | Keating |
| Barchfeld | Davenport | Goodwin, Ark. | Kennedy, Conn. |
| Bartholdt | Deitrick | Gorman | Kent |
| Bartlett | Dershem | Graham, Ill. | Key, Ohio |
| Beall, Tex. | Dies | Graham, Pa. | Kiess, Pa |
| Bell, Ga. | Difenderfer | Green, Iowa | Kinkead, N. J. |
| Borland | Dooling | Greene, Mass. | Kitchin |
| Brockson | Drukker | Griest | Knowland, J. R. |
| Brown, N. Y. | Eagan | Gudger | Kreider |
| Browne, Wis. | Eagle | Hamill | Lafferty |
| Browning | Edmonds | Hamilton, Mich. | Langham |
| Bulkley | Edwards | Hamilton, N. Y. | Langley |
| Burke, Pa. | Estopinal | Hardwick | Lazaro |
| Butler | Fairchild | Haugen | L'Engle |
| Brynes, S. C. | Faison | Hayes | Lenroot |
| Byrns, Tenn. | Fess | Henry | Levy |
| Calder | Fields | Hinds | Lewis, Pa. |
| Callaway | Fitzgerald | Hinebaugh | Lindquist |
| Cantor | Frear | Hobson | Linthicum |
| Cantrill | Gallagher | Holland | Lobeck |
| Carlin | Gallivan | Houston | Loft |
| McAndrews | O'Shaunessy | Shreve | Thacher |
| McClellan | Padgett | Sinnott | Thomas |
| McGillicuddy | Paige, Mass. | Slayden | Thompson, Okla. |
| McGuire, Okla. | Palmer | Smith, Md. | Tuttle |
| McLaughlin | Parker | Smith, J. M. C. | Underhill |
| Mahan | Peters, Mass. | Smith, N. Y. | Vaughan |
| Maher | Phelan | Smith, Tex. | Vollmer |
| Manahan | Platt | Stafford | Walker |
| Martin | Porter | Stanley | Wallin |
| Merritt | Powers | Steenerson | Walsh |
| Metz | Prouty | Stephens, Miss. | Walters |
| Montague | Ragsdale | Stephens, Nebr. | Weaver |
| Moore | Rauch | Stevens, Minn. | Whaley |
| Morgan, La. | Rayburn | Stringer | Whitacre |
| Morin | Reilly, Conn. | Sumners | White |
| Moss, W. Va. | Riordan | Sutherland | Willis |
| Mott | Roberts, Mass. | Switzer | Wilson, N. Y. |
| Murray, Mass. | Rupley | Taggart | Winslow |
| Murray, Okla. | Sabath | Talbott, Md. | Young, Tex. |
| Neeley, Kans. | Saunders | Taylor, Ala. | |
| Nelson | Scully | Taylor, N. Y. | |
| Oglesby | Sherwood | Temple | |

The SPEAKER. On this roll call 231 Members, a quorum, have answered to their names. The Doorkeeper will open the doors.

Mr. UNDERWOOD. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

Mr. WINGO. Mr. Speaker, I regret we have not more time in which to consider this question. Unfortunately those of us who believe in carrying out the pledges which were made to the cotton farmers of the South to absolutely prohibit gambling in cotton have had very little opportunity at the two different times this question has come up at this Congress. We have not had opportunity on either occasion to even offer the legislation which is confessed by all to be a protection to the cotton farmer—that is, the Scott bill or the Beall bill. I am opposed to the adoption of this conference report, Mr. Speaker, and in the short time allowed me I want to give my reasons. It is admitted that section 5 of the bill deals with what are called gambling contracts on the New York Cotton Exchange. You will note that if these gambling contracts are in the form prescribed, then they are exempt from the prohibitive tax levied by this bill. The chairman of the committee is very sure of that. He is very sure that the gamblers will all comply, so that there will not be any tax collected. He is correct, and the gentleman from Alabama [Mr. HEFLIN] is wrong. The gentleman from Alabama undertook to say there were five different propositions in this bill and he gave two. One was that it would establish Government standard grades. Well, we already have Government standard grades and have had for three years and nine months.

Mr. HEFLIN. The New York Cotton Exchange has not had it.

Mr. WINGO. The bill as it passed the House recognized those Government standard grades. The conference report abolishes them and leaves it to the Secretary of Agriculture to establish in the future such standard grades as he may desire. The gentleman from Alabama [Mr. HEFLIN] says that this is going to require the cotton exchanges to adopt these standards. If the gentleman from Alabama had read Bulletin 591 of the Department of Agriculture, he would have seen that every cotton exchange in the country, including the New York Cotton Exchange, has already adopted the present Government standards, and the Liverpool Cotton Exchange has adopted the present United States Government standard grades, to take effect on September 1. So there is nothing in the contention that this bill will establish Government standards. The next proposition of the gentleman from Alabama is that we will make these gamblers settle their differences by commercial differences and not by fixed differences. What difference does it make to the cotton farmer how these gamblers settle their differences? The gentleman from South Carolina [Mr LEVER] admits that the operation of this bill will increase gambling operations upon the New York Stock Exchange, and I do not think any man can doubt that. He says this increased gambling will help the legitimate cotton market. There is the point of difference between us. Mr. Speaker, I want to submit that the most dangerous part of the conference report is that amendment proposed by the conferees, which provides that to section 10 shall be added a new paragraph, which reads, "that the provisions of this section shall not apply to contracts under section 5"; that is, gambling contracts. There is a difference between the provisions of section 10 and section 5. We will admit for the sake of argument that the gentleman from South Carolina stated correctly what they are, but paragraph 4 of section 10 is the only place in the bill where "ring settlements" or "set-offs" are prohibited, so what do you do by the adoption of the conference report?

You adopt the amendment to the bill which says the inhibition against "ring settlements" and "set-offs" shall not apply

to the gambling contracts of the New York Cotton Exchange. Do you want to do that? Why have an inhibition against "ring settlements" in section 10, which the gentleman says applies to a planter who might want to sell a spinner his cotton crop for future delivery, and leave the gamblers unrestrained? A "ring settlement," according to their own statement, is a settlement among members on the gambling exchange. How could you say that there is a ring settlement by the planter and the cotton buyer?

The SPEAKER. The time of the gentleman has expired.

Mr. WINGO. Mr. Speaker, I believe I will transgress upon the patience of the House and ask for five minutes additional time.

The SPEAKER. The gentleman from Arkansas asks unanimous consent that the time of the gentleman from South Carolina be extended for five minutes and that time be yielded to him. Is there objection? [After a pause.] The Chair hears none.

Mr. WINGO. Now, Mr. Speaker, do we want to exempt the gambling operations upon the New York Cotton Exchange from the restrictive provisions against "ring settlements" contained in subdivision 4 of section 10? Adopt this conference report and that is what you do. Why do you exempt these gamblers from the only provision in the bill requiring actual delivery of cotton? Oh, the gentleman from South Carolina says if you enforce actual delivery you would destroy the gambling exchanges. But you say that if anyone wanted actual cotton delivered he could go into court and force delivery of the cotton. Let us consider whether he can.

Is there a lawyer in this House who will contend seriously that a court of equity will enforce specific performance of a contract calling for the delivery of a commodity that can be bought in the open market? There is not a lawyer here that will stake his reputation as a lawyer upon any such assertion as that. If these gamblers make their contracts under the provisions of section 5, when settlement day comes what will happen? Will they undertake to deliver actual cotton? No; and it is not contended that they could. They could not deliver the 15,000,000 or more bales dealt in. I venture the assertion that on the New York Cotton Exchange on the 1st day of next December, when settling times comes on December contracts, there will be at least 20,000,000 bales of cotton settled for by "ring settlements" or "set offs." That will be 5,000,000 bales more than the entire cotton crop. What will happen? The man who has sold 1,000 bales, at 10 cents, December delivery, and December cotton is then selling at 12 cents, will do what? Settle by differences. But suppose one demands actual cotton; what will be the seller's answer? He will say, "You know it was a gambling contract. You know I am a gambler in 'phantom' cotton. You know I did not intend to deliver actual cotton. I will pay you the 2 cents difference." The purchaser says, "No; I want the cotton. The Lever bill requires you to deliver it to me. I will go into court and see if it will not." He will go into court. What will be the result? Every lawyer knows that he can not force actual delivery, but can only bring suit for damages for breach of contract, and the measure of damages is the difference between the contract price and the market price at the maturity of the contract—2 cents a pound.

Mr. HUMPHREYS of Mississippi. Will the gentleman yield for a question?

Mr. WINGO. Not now. I think if the Members from the cotton-growing States would study this bill and study it carefully there would not be as many as five of them vote for a bill of this kind. Why? Because it legalizes and licenses gambling in cotton futures, which we promised to suppress. Is there a man in this House that will go before the cotton growers of the South and say, "I voted to license cotton gambling"? Dare you go to the raiser of the cotton—and I am talking of the farmer who makes from 1 to 20 bales of cotton a year—do you dare go to him and say, "I voted for a bill that permitted, legalized, and licensed gambling on the New York Cotton Exchange, a bill that will increase the number of 'phantom' bales dealt in"? Is there a man here that will tell the cotton farmer that he did that? That will be your position if you vote for this conference report. Every man here knows that the cotton growers of this country want the old Scott bill. Why do you not give it to us? You say the Senate will not pass it. You have not tried the present Senate. This bill was brought up at a time and under a rule that prevented us from offering the old Scott bill as a substitute. If you pass the old Scott bill to stop the gambling, it will go through the Senate, because they do not dare to obstruct it any longer. Do you think you are going to fool the cotton farmer much longer by this jockeying between the House and the Senate on this question? Do you think he is going to take with any degree of credence the statement that we can not possibly get the two Houses together on something that is admitted would absolutely destroy this pernicious evil, the thing that we as a party have pledged we would do? We promised the cotton growers of the South to suppress gambling in cotton, which it is admitted bears down the price of cotton, but by this bill you license the evil. You by this act legalize and protect that which you promised to destroy. For such a course there is neither moral nor political justification. [Applause.]

The SPEAKER. The time of the gentleman from Arkansas [Mr. WINGO] has expired.

Mr. LEVER. Mr. Speaker, for more than a quarter of a century the people of this country have been endeavoring to find a legislative method of dealing effectively with a situation which all admit to be bad. The old Hatch bill passed through the House, went to the Senate, was amended, sent to conference, and there died. The Scott bill was sent by this House to the Senate and it died in committee. The Beall bill, identical in terms, was likewise sent to the Senate, and it, too, died there. And yet the gentleman says, "Why not try the present Senate out?" I call his attention to the fact that the Senate during this year has expressed itself on this proposition and has sent us a bill identical in purpose, differing only in method from the bill we are considering in conference at this time. If the Senate wanted to pass the Scott bill and put it up to the House, why did it not do so? Why did it send to us a bill seeking to regulate and not destroy the exchanges, as it did in the Smith bill, for which this is a substitute. The position of the Senate at this time, according to its own record, is in line with the general purpose of the bill we are about to vote upon. We are nearer an agreement than ever before, and why not agree and get legislation?

Mr. HOWARD. Will the gentleman yield?

Mr. LEVER. I can not do so. I am sorry, but I have only five minutes.

I want to call the attention of the cotton men on the floor of this House to this fact: That this bill comes from the Committee on Agriculture with every Southern man behind it, and I believe that they are as true and accurate representatives of the cotton growers of the South as is my friend from Arkansas [Mr. WINGO]. More than that, this bill had its inception in the Senate, where it was introduced by Senator E. D. SMITH, of my State, who some years ago organized that great fight in the South for the cotton farmer, which has meant so much for him, and I want to say he is anxious for legislation at this session. No one can question his loyalty to the cotton farmer. He has proved his faith in works.

Another thing, two conferees of the Senate on this bill come from two of the biggest cotton-growing States in the Union, Senator SMITH of Georgia, from that great cotton State, and Senator SHEPPARD, of Texas, from a State which raises one-fourth of all the cotton produced in this country.

I call your attention to the fact that this is a unanimous report. It is agreed to by all of us. It may not represent all that we want, but I call your attention to the fact—and you can not get around it—that if you defeat this legislation to-day, with this Congress on the eve of an adjournment, there is not a sensible man here who does not know, who does not admit in his own heart, that that is the end of legislation in this session of Congress on this proposition.

Mr. Speaker, I ask that I be notified when my time is up, so that I can move the previous question.

The SPEAKER. The gentleman has half a minute remaining.

Mr. LEVER. I am willing to put it up to you, gentlemen. It is either this bill—and we believe it to be a good one—or it is no legislation. Which do you want?

Now, Mr. Speaker, I move the previous question on the adoption of the conference report.

The SPEAKER. The gentleman from South Carolina moves the previous question on the adoption of the conference report. The question is on agreeing to that motion.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. MURDOCK. A division, Mr. Speaker.

The SPEAKER. A division is demanded.

The House divided; and there were—ayes 91, noes 15.

So the previous question was ordered.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. WINGO. A division, Mr. Speaker.

The SPEAKER. The gentleman from Arkansas [Mr. WINGO] demands a division.

The House divided; and there were—ayes 117, noes 45.

Mr. MURDOCK. Mr. Speaker, I make the point of no quorum.

The SPEAKER. The gentleman from Kansas [Mr. MURDOCK] makes the point that there is no quorum present. The Chair will count. [After counting.] One hundred and seventy-five Members are present—not a quorum. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll. Those in favor of agreeing to the conference report will, when their names are called, answer "yea"; those opposed will answer "nay."

The question was taken; and there were—yeas 146, nays 77, answered "present" 3, not voting 206, as follows:

YEAS—146.

| | | | |
|---|---|---|---|
| Abercrombie | Dickinson | Heflin | Post |
| Adamson | Dixon | Helgesen | Pou |
| Alexander | Doolittle | Helm | Quin |
| Allen | Doremus | Hensley | Rainey |
| Ansberry | Doughton | Howell | Raker |
| Baker | Driscoll | Hull | Reed |
| Baltz | Dupré | Humphreys, Miss. | Reilly, Wis. |
| Barkley | Elder | Igoe | Rouse |
| Barnhart | Esch | Kettner | Rubey |
| Bathrick | Evans | Kindel | Rucker |
| Beakes | Fergusson | Konop | Russell |
| Blackmon | Ferris | Korbly | Seldomridge |
| Booher | Finley | Lee, Ga. | Shackleford |
| Borchers | Foster | Lee, Pa. | Sherley |
| Bowdle | Francis | Lesher | Sisson |
| Brodbeck | French | Lever | Sloan |
| Broussard | Gallivan | Lewis, Md. | Small |
| Bruckner | Gard | Lieb | Smith, Idaho |
| Brumbaugh | Garner | Lloyd | Sparkman |
| Buchanan, Ill. | Garrett, Tenn. | Lonergan | Stedman |
| Buchanan, Tex. | Garrett, Tex. | McCoy | Stephens, Tex. |
| Burgess | Gilmore | McKellar | Talcott, N. Y. |
| Burke, Wis. | Gittins | Maguire, Nebr. | Taylor, Colo. |
| Burnett | Gordon | Mitchell | Ten Eyck |
| Candler, Miss. | Goulden | Moon | Thacher |
| Carr | Graham, Ill. | Morgan, Okla. | Towner |
| Church | Gregg | Morrison | Townsend |
| Clancy | Griffin | Moss, Ind. | Underwood |
| Claypool | Hamlin | Mulkey | Watkins |
| Cline | Hammond | Norton | Watson |
| Coady | Hardy | O'Brien | Webb |
| Collier | Harris | Oldfield | Williams |
| Conry | Harrison | O'Leary | Wilson, Fla. |
| Curry | Hart | Page, N. C. | Witherspoon |
| Dale | Hawley | Patton, Pa. | Young, N. Dak. |
| Decker | Hay | Peterson | |
| Dent | Hayden | Plumley | |

NAYS—77.

| | | | |
|---|---|---|---|
| Barton | Farr | Kinkaid, Nebr. | Sells |
| Bell, Cal. | FitzHenry | Kirkpatrick | Sims |
| Britten | Floyd, Ark. | La Follette | Smith, Minn. |
| Brown, W. Va. | Fordney | Lindbergh | Stephens, Cal. |
| Bryan | Fowler | Logue | Stevens, Minn. |
| Burke, S. Dak. | Good | McKenzie | Stevens, N. H. |
| Campbell | Gray | MacDonald | Stone |
| Carew | Greene, Vt. | Madden | Tavenner |
| Clark, Fla. | Howard | Mann | Taylor, Ark. |
| Connelly, Kans. | Johnson, Ky. | Mapes | Thomson, Ill. |
| Cooper | Johnson, Utah | Mondell | Treadway |
| Cox | Johnson, Wash. | Murdock | Tribble |
| Cullop | Kahn | Neely, W. Va. | Vare |
| Danforth | Keating | Nolan, J. I. | Volstead |
| Davis | Keister | Park | Walker |
| Dillon | Kelley, Mich. | Payne | Wingo |
| Donohoe | Kelly, Pa. | Peters, Me. | Woodruff |
| Donovan | Kennedy, Iowa | Roberts, Nev. | |
| Dunn | Kennedy, R. I. | Rogers | |
| Falconer | Kent | Scott | |

ANSWERED "PRESENT"—3.

| | | |
|---|---|---|
| Guernsey | Hill | Metz |

NOT VOTING—206.

| | | | |
|---|---|---|---|
| Adair | Caraway | Flood, Va. | Hobson |
| Aiken | Carlin | Frear | Holland |
| Ainey | Carter | Gallagher | Houston |
| Anderson | Cary | Gardner | Hoxworth |
| Anthony | Casey | George | Hughes, Ga. |
| Ashbrook | Chandler, N. Y. | Gerry | Hughes, W. Va. |
| Aswell | Connolly, Iowa | Gill | Hulings |
| Austin | Copley | Gillett | Humphrey, Wash. |
| Avis | Covington | Glass | Jacoway |
| Bailey | Cramton | Godwin, N. C. | Johnson, S. C. |
| Barchfeld | Crisp | Goeke | Jones |
| Bartholdt | Crosser | Goldfogle | Kennedy, Conn. |
| Bartlett | Davenport | Goodwin, Ark. | Key, Ohio |
| Beall, Tex. | Deitrick | Gorman | Kiess, Pa. |
| Bell, Ga. | Dershem | Graham, Pa. | Kinkead, N. J. |
| Borland | Dies | Green, Iowa | Kitchin |
| Brockson | Difenderfer | Greene, Mass. | Knowland, J. R. |
| Brown, N. Y. | Dooling | Griest | Kreider |
| Browne, Wis. | Drukker | Gudger | Lafferty |
| Browning | Eagan | Hamill | Langham |
| Buckley | Eagle | Hamilton, Mich. | Langley |
| Burke, Pa. | Edmonds | Hamilton, N. Y. | Lazaro |
| Butler | Edwards | Hardwick | L'Engle |
| Byrnes, S. C. | Estopinal | Haugen | Lenroot |
| Byrns, Tenn. | Fairchild | Hayes | Levy |
| Calder | Faison | Helvering | Lewis, Pa. |
| Callaway | Fess | Henry | Lindquist |
| Cantor | Fields | Hinds | Linthicum |
| Cantrill | Fitzgerald | Hinebaugh | Lobeck |
| Loft | O'Hair | Scully | Taylor, Ala. |
| McAndrews | O'Shaunessy | Sherwood | Taylor, N. Y. |
| McClellan | Padgett | Shreve | Temple |
| McGillicuddy | Paige, Mass. | Sinnott | Thomas |
| McGuire, Okla. | Palmer | Slayden | Thompson, Okla. |
| McLaughlin | Parker | Slemp | Tuttle |
| Mahan | Patten, N. Y. | Smith, J. M. C. | Underhill |
| Maher | Peters, Mass. | Smith, Md. | Vaughan |
| Manahan | Phelan | Smith, N. Y. | Vollmer |
| Martin | Platt | Smith, Saml. W. | Wallin |
| Merritt | Porter | Smith, Tex. | Walsh |
| Miller | Powers | Stafford | Walters |
| Montague | Prouty | Stanley | Weaver |
| Moore | Ragsdale | Steenerson | Whaley |
| Morgan, La. | Rauch | Stephens, Miss. | Whitacre |
| Morin | Rayburn | Stephens, Nebr. | White |
| Moss, W. Va. | Reilly, Conn. | Stout | Willis |
| Mott | Riordan | Stringer | Wilson, N. Y. |
| Murray, Mass. | Roberts, Mass. | Sumners | Winslow |
| Murray, Okla. | Rothermel | Sutherland | Woods |
| Neeley, Kans. | Rupley | Switzer | Young, Tex. |
| Nelson | Sabath | Taggart | |
| Oglesby | Saunders | Talbott, Md. | |

So the conference report was agreed to.

The Clerk announced the following pairs:

Until further notice:

Mr. SUMNERS with Mr. TEMPLE.

Mr. TAYLOR of Alabama with Mr. HUGHES of West Virginia.

Mr. CLANCY with Mr. HAMILTON of New York.

Mr. BARTLETT with Mr. BUTLER.

Mr. MCGILLICUDDY with Mr. GUERNSEY.

Mr. SLAYDEN with Mr. BURKE of Pennsylvania.

Mr. HENRY with Mr. HINDS.

Mr. DAVENPORT with Mr. J. M. C. SMITH.

Mr. FAISON with Mr. GREENE of Massachusetts.

Mr. WEAVER with Mr. WALTERS.

Mr. PADGETT with Mr. MORIN.

Mr. MORGAN of Louisiana with Mr. LINDQUIST.

Mr. FIELDS with Mr. LAFFERTY.

Mr. EDWARDS with Mr. GRIEST.

Mr. BELL of Georgia with Mr. CALDER.

Mr. BYRNES of South Carolina with Mr. KREIDER.

Mr. JACOWAY with Mr. ANTHONY.

Mr. ESTOPINAL with Mr. FREAR.

Mr. KITCHIN with Mr. ROBERTS of Massachusetts.

Mr. CALLAWAY with Mr. WILLIS.

Mr. GOODWIN of Arkansas with Mr. PROUTY.

Mr. BROWN of New York with Mr. CHANDLER of New York.

Mr. ASWELL with Mr. CARY.

Mr. GORMAN with Mr. MCLAUGHLIN.

Mr. LOBECK with Mr. POWERS.

Mr. SAUNDERS with Mr. WINSLOW.

Mr. SABATH with Mr. SWITZER.

Mr. LAZARO with Mr. PARKER.

Mr. YOUNG of Texas with Mr. AINEY.

Mr. HARDWICK with Mr. J. R. KNOWLAND.

Mr. HUGHES of Georgia with Mr. MERRITT.

Mr. THOMAS with Mr. FAIRCHILD.

Mr. VAUGHAN with Mr. SHREVE.

Mr. STEPHENS of Nebraska with Mr. LEWIS of Pennsylvania.

Mr. SHERWOOD with Mr. DRUKKER.

Mr. AIKEN with Mr. BARCHFELD.

Mr. ASHBROOK with Mr. ANDERSON.

Mr. BAILEY with Mr. AVIS.

Mr. BORLAND with Mr. AUSTIN.

Mr. BULKLEY with Mr. BROWNE of Wisconsin.

Mr. BYRNS of Tennessee with Mr. EDMONDS.

Mr. CANTRILL with Mr. COPLEY.

Mr. CARAWAY with Mr. FESS.

Mr. CARTER with Mr. CRAMTON.

Mr. CASEY with Mr. GRAHAM of Pennsylvania.

Mr. CONNOLLY of Iowa with Mr. GREEN of Iowa.

Mr. DERSHEM with Mr. HAMILTON of Michigan.

Mr. DEITRICK with Mr. HAUGEN.

Mr. FLOOD of Virginia with Mr. HAYES.

Mr. GALLAGHER with Mr. HINEBAUGH.

Mr. GODWIN of North Carolina with Mr. HULINGS.

Mr. HOLLAND with Mr. HUMPHREY of Washington.

Mr. HOUSTON with Mr. LANGHAM.

Mr. JOHNSON of South Carolina with Mr. KIESS of Pennsylvania.

Mr. KEY of Ohio with Mr. LANGLEY.

Mr. LINTHICUM with Mr. MCGUIRE of Oklahoma.

Mr. MCCLELLAN with Mr. MANAHAN.

Mr. MONTAGUE with Mr. MARTIN.

Mr. MURRAY of Massachusetts with Mr. MILLER.

Mr. TUTTLE with Mr. MOORE.

Mr. WHALEY with Mr. MOSS of West Virginia.

Mr. WHITE with Mr. MOTT.

Mr. PALMER with Mr. NELSON.

Mr. PHELAN with Mr. PAIGE of Massachusetts.

Mr. RAUCH with Mr. PLATT.
Mr. RAYBURN with Mr. PORTER.
Mr. REILLY of Connecticut with Mr. SINNOTT.
Mr. RIORDAN with Mr. RUPLEY.
Mr. SMITH of Texas with Mr. BARTHOLDT.
Mr. STEPHENS of Mississippi with Mr. SAMUEL W. SMITH.
Mr. TAGGART with Mr. WOODS.
Mr. TALBOTT of Maryland with Mr. SUTHERLAND.
Mr. UNDERHILL with Mr. STEENERSON.
For the session:
Mr. GLASS with Mr. SLEMP.
Mr. SCULLY with Mr. BROWNING.
The result of the vote was announced as above recorded.
The SPEAKER. A quorum is present. The Doorkeeper will open the doors.
On motion of Mr. LEVER, a motion to reconsider the vote whereby the conference report was adopted was laid on the table.

EXTENSION OF REMARKS.

The SPEAKER. Some two or three hours ago the gentleman from Washington [Mr. JOHNSON] asked unanimous consent to extend his remarks in the RECORD. In the rush of the proceedings the Chair failed to put the request. Is there objection?
There was no objection.
Mr. PETERSON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of business conditions in northwestern Indiana.
The SPEAKER. The gentleman from Indiana [Mr. PETERSON] asks unanimous consent to extend his remarks in the RECORD on the subject of business conditions in northwestern Indiana. Is there objection?
There was no objection.

ADJOURNMENT.

Mr. JOHNSON of Kentucky. Mr. Speaker, at the request of the gentleman from Alabama [Mr. UNDERWOOD], who was compelled to leave the Hall for a moment, I move that the House do now adjourn.
The motion was agreed to; accordingly (at 5 o'clock and 37 minutes p. m.) the House adjourned until to-morrow, Tuesday, July 28, 1914, at 12 o'clock noon.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:
Mr. DENT, from the Committee on Military Affairs, to which was referred the bill (H. R. 16510) to provide for recognizing the services of certain officers of the Army and Navy, late members of the Isthmian Canal Commission, to extend to them the thanks of Congress, to authorize their promotion, and for other purposes, reported the same without amendment, accompanied by a report (No. 1022), which said bill and report were referred to the Committee of the Whole House on the state of the Union.
Mr. HAWLEY, from the Committee on Agriculture, to which was referred the bill (H. R. 17780) providing for the use of certain portions or spaces of ground within the national forests for recreation purposes, reported the same without amendment, accompanied by a report (No. 1023), which said bill and report were referred to the Committee of the Whole House on the state of the Union.
Mr. FRENCH, from the Committee on the Public Lands, to which was referred the bill (S. 6106) validating locations of deposits of phosphate rock heretofore made in good faith under the placer mining laws of the United States, reported the same with amendment, accompanied by a report (No. 1020), which said bill and report were referred to the Committee of the Whole House on the state of the Union.
Mr. RAKER, from the Committee on the Public Lands, to which was referred the bill (H. R. 52) to establish the Peter Lassen National Park in the Sierra Nevada Mountains, in the State of California, and for other purposes, reported the same with amendment, accompanied by a report (No. 1021), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

## PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:
By Mr. HELVERING: A bill (H. R. 18084) to amend section 82, chapter 231, of the act to codify, revise, and amend the laws relating to the judiciary; to the Committee on the Judiciary.
By Mr. EVANS: A bill (H. R. 18085) to prevent the transportation by interstate carriers of certain persons and articles for the alleged prevention of so-called labor troubles; to the Committee on Interstate and Foreign Commerce.
By Mr. CARAWAY: A bill (H. R. 18086) to amend section 71 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 4, 1911; to the Committee on the Judiciary.
By Mr. WINGO: A bill (H. R. 18087) authorizing the Secretary of War to donate to the city of Mena, Ark., two cannon or fieldpieces; to the Committee on Military Affairs.
By Mr. ROBERTS of Nevada: Resolution (H. Res. 579) amending the Rules of the House of Representatives of the Sixty-third Congress; to the Committee on Rules.
By Mr. JOHNSON of Washington: Resolution (H. Res. 580) directing an investigation of the Chesapeake and Potomac Telephone Co.; to the Committee on the District of Columbia.

## PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:
By Mr. BARTON: A bill (H. R. 18088) to correct the military record of Joseph Gorman; to the Committee on Military Affairs.
By Mr. BURKE of Wisconsin: A bill (H. R. 18089) granting an increase of pension to Aurilla Robbins; to the Committee on Invalid Pensions.
By Mr. BURNETT: A bill (H. R. 18090) for the relief of Amos L. Griffith; to the Committee on War Claims.
Also, a bill (H. R. 18091) granting a pension to D. A. Hollind; to the Committee on Invalid Pensions.
By Mr. CLAYPOOL: A bill (H. R. 18092) granting an increase of pension to Delliah Beecher; to the Committee on Invalid Pensions.
By Mr. DICKINSON: A bill (H. R. 18093) for the relief of the heirs of J. W. George, deceased; to the Committee on War Claims.
By Mr. FLOYD of Arkansas: A bill (H. R. 18094) granting an increase of pension to Calvin D. Weatherman; to the Committee on Invalid Pensions.
By Mr. FRANCIS: A bill (H. R. 18095) granting a pension to Elizabeth Lucas; to the Committee on Invalid Pensions.
Also, a bill (H. R. 18096) granting a pension to Mary C. Hamilton; to the Committee on Invalid Pensions.
Also, a bill (H. R. 18097) granting a pension to Winfield H. Handlay; to the Committee on Pensions.
Also, a bill (H. R. 18098) granting a pension to Newton L. Ingledue; to the Committee on Pensions.
Also, a bill (H. R. 18099) granting an increase of pension to Samuel Gooding; to the Committee on Invalid Pensions.
Also, a bill (H. R. 18100) granting an increase of pension to Robert Hood; to the Committee on Invalid Pensions.
Also, a bill (H. R. 18101) granting an increase of pension to John W. Beckett; to the Committee on Invalid Pensions.
Also, a bill (H. R. 18102) granting a pension to Ida M. Gleaves; to the Committee on Invalid Pensions.
Also, a bill (H. R. 18103) granting an increase of pension to Nathan Chaney; to the Committee on Invalid Pensions.
By Mr. GARD: A bill (H. R. 18104) granting a pension to Bennie Holman; to the Committee on Pensions.
By Mr. HULINGS: A bill (H. R. 18105) granting a pension to John Morgan; to the Committee on Invalid Pensions.
By Mr. LANGLEY: A bill (H. R. 18106) for the allowance of certain claims reported by the Court of Claims; to the Committee on Claims.
By Mr. McKELLAR: A bill (H. R. 18107) for the relief of the estate of James A. Robinson, deceased; to the Committee on War Claims.
Also, a bill (H. R. 18108) for the relief of the heirs or estate of David Jameson, deceased; to the Committee on War Claims.
By Mr. POWERS: A bill (H. R. 18109) for the relief of the heirs or estate of John Asher, deceased; to the Committee on War Claims.
By Mr. REED: A bill (H. R. 18110) for the relief of John Sullivan; to the Committee on Military Affairs.
By Mr. SELLS: A bill (H. R. 18111) granting a pension to Henry H. Collins; to the Committee on Pensions.
Also, a bill (H. R. 18112) granting a pension to William A. Wilson; to the Committee on Pensions.
Also, a bill (H. R. 18113) granting a pension to John B. Eakles; to the Committee on Pensions.
Also, a bill (H. R. 18114) granting a pension to Eli M. Blair; to the Committee on Pensions.
Also, a bill (H. R. 18115) granting an increase of pension to David G. W. Barnes; to the Committee on Invalid Pensions.
Also, a bill (H. R. 18116) granting an increase of pension to Ezekiel Goan; to the Committee on Invalid Pensions.

By Mr. SMITH of Idaho: A bill (H. R. 18117) granting an increase of pension to Charles E. Bradish; to the Committee on Invalid Pensions.

By Mr. SUTHERLAND: A bill (H. R. 18118) granting an increase of pension to James W. Ward; to the Committee on Invalid Pensions.

## PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Resolution signed by Roy L. Smith and others at Keota (Iowa) Chautauqua, protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

By Mr. BRUCKNER: Petition of International Union of Journeymen Horseshoers, against national prohibition; to the Committee on Rules.

Also, memorial of department on compensation for industrial accidents and their prevention, the National Civic Federation, favoring passage of House bill 10735, to create a bureau of labor safety in the Department of Labor; to the Committee on Labor.

Also, petition of Claflin, Thayer & Co., of New York City, and F. A. Molitor, of New York City, protesting against legislation affecting business; to the Committee on the Judiciary.

Also, petition of sundry railway postal clerks, favoring amendment to House bill 17042, relative to free transportation for clerks to and from duty; to the Committee on the Post Office and Post Roads.

By Mr. DALE: Memorial of citizens of New York City, favoring Government ownership of the coal fields of Colorado; to the Committee on the Judiciary.

By Mr. DILLON: Petition of sundry voters of Carthage, S. Dak., favoring national prohibition; to the Committee on Rules.

By Mr. GOOD: Petition of 750 people of Cedar Rapids, Iowa, favoring national prohibition; to the Committee on Rules.

By Mr. GUERNSEY: Petition of Woman's Christian Temperance Union of Greenville, Me., favoring censorship of motion-picture films; to the Committee on the Judiciary.

Also, petition of Epworth Leagues of the Methodist Episcopal churches of Bangor, Brewer, North Brewer, Orono, Stillwater, and Oldtown, citizens of Calais, Caribou, Bangor, Castine, Methodist Episcopal Church, Calais, Yearly Meeting of Friends for New England at Vassalboro, all in the State of Maine, favoring national prohibition; to the Committee on Rules.

By Mr. HARRIS: Forty-six post cards from residents of the eighth congressional district of Alabama, in support of the Hobson prohibition amendment to the Constitution of the United States; to the Committee on Rules.

Also, petition of Missionary Federation of Decatur, Decatur, Ala., favoring national prohibition; to the Committee on Rules.

By Mr. HILL: Petition of the citizens of the twenty-fifth congressional district of Illinois, praying for the passage of House joint resolution 282, introduced by Representative SMITH of New York, to investigate claims of Dr. F. A. Cook that he discovered the North Pole; to the Committee on Naval Affairs.

By Mr. HOWELL: Petitions of sundry citizens of Ogden, Utah, in favor of national prohibition; to the Committee on Rules.

By Mr. LEE of Pennsylvania: Petition of International Union of Journeymen Horseshoers, against national prohibition; to the Committee on Rules.

Also, petition of citizens of New York City, favoring Government ownership of the coal fields of Colorado; to the Committee on the Judiciary.

By Mr. McCLELLAN: Petition of A. H. Bush and 16 others, representing Local Union No. 223, W. A. of Plumbers and Steam Fitters, of Kingston, N. Y., protesting against national prohibition; to the Committee on Rules.

By Mr. MERRITT: Petition of Mrs. John S. Stetson, Mrs. Clarence H. Jones, Miss I. C. Migatt, Mrs. W. W. Jacques, W. W. Jacques, Mrs. N. H. Gass, Mrs. Carrie Barber, Mrs. P. H. Pordy, J. W. Talford, Mrs. J. W. Talford, J. B. Dickinson, Mrs. J. B. Dickinson, B. N. Dickinson, Mrs. B. N. Dickinson, Helen J. Dickinson, Janet M. Hinman, Mrs. Julia Trombly, Laura G. Ingles, Mrs. Isabella H. Graves, J. B. Ingles, R. W. Wheeler, John F. Hill, C. E. Hamilton, Mrs. C. E. Hamilton, Mrs. R. A. Wheeler, Charles A. Dominy, Nellie L. Dominy, Mrs. R. Simond, R. Simond, J. H. McCuen, R. A. Wheeler, Albert Beck, F. Beck, George R. Mott, and H. E. Myoick, all of Chazy, N. Y., favoring national prohibition; to the Committee on Rules.

By Mr. REED: Petition of Abraham Goldberg and 85 others, all from Manchester, N. H., protesting against national prohibition of the liquor traffic; to the Committee on Rules.

By Mr. SUTHERLAND: Papers to accompany a bill for relief of James W. Ward; to the Committee on Invalid Pensions.

By Mr. THOMSON of Illinois: Petition of 100 citizens of Millburn, Ill., favoring national prohibition; to the Committee on Rules.

By Mr. WHITE: Petition signed by A. N. Klein and J. B. Clark and about 34 others, of Marietta, Ohio, protesting against the enactment of any law reducing the postage on first-class mail matter or increasing it on second-class matter; to the Committee on the Post Office and Post Roads.

# SENATE.

## TUESDAY, *July 28, 1914.*

*(Legislative day of Monday, July 27, 1914.)*

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House agrees to the amendment of the Senate to the bill (H. R. 8688) for the relief of Lucien P. Rogers.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 110) to regulate trading in cotton futures and provide for the standardization of "upland" and "gulf" cottons separately.

The message further announced that the House had passed a joint resolution (H. J. Res. 241) for the appointment of four members of the Board of Managers of the National Home for Disabled Volunteer Soldiers, in which it requested the concurrence of the Senate.

### ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 4988) to provide for the disposal of certain lands in the Fort Berthold Indian Reservation, N. Dak., and it was thereupon signed by the Vice President.

### FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

| | | | |
|---|---|---|---|
| Ashurst | Hollis | Perkins | Stone |
| Brady | Jones | Pittman | Sutherland |
| Brandegee | Kern | Pomerene | Swanson |
| Bryan | Lane | Reed | Thomas |
| Camden | Lea, Tenn. | Saulsbury | Thompson |
| Catron | Myers | Shafroth | Thornton |
| Chamberlain | Nelson | Sheppard | Tillman |
| Culberson | Norris | Simmons | Vardaman |
| Cummins | O'Gorman | Smith, Ga. | Walsh |
| Gallinger | Overman | Smoot | White |
| Gronna | Page | Sterling | |

Mr. THORNTON. I desire to announce the necessary absence of my colleague [Mr. RANSDELL] on account of illness. I ask that this announcement may stand for the day.

Mr. KERN. I desire to announce the unavoidable absence of my colleague [Mr. SHIVELY]. He is paired. This announcement may stand for the day.

Mr. JONES. I desire to announce that the junior Senator from Michigan [Mr. TOWNSEND] is necessarily absent. He is paired with the junior Senator from Arkansas [Mr. ROBINSON]. I make this announcement for the day.

Mr. CATRON. I wish to announce the unavoidable absence of my colleague [Mr. FALL]. I wish this announcement to stand for this legislative day.

Mr. PAGE. I wish to announce the necessary absence of my colleague [Mr. DILLINGHAM]. He is paired with the senior Senator from Maryland [Mr. SMITH].

Mr. JONES. I desire to announce that the senior Senator from Wisconsin [Mr. LA FOLLETTE] is necessarily absent on account of illness.

Mr. GALLINGER. I make a similar announcement concerning the junior Senator from Maine [Mr. BURLEIGH].